

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1949

No. 33

CHARLES QUICKSALL, PETITIONER,

vs.

PEOPLE OF THE STATE OF MICHIGAN

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE
OF MICHIGAN

PETITION FOR CERTIORARI FILED NOVEMBER 8, 1948.

CERTIORARI GRANTED FEBRUARY 28, 1949.

State of Michigan
In the
SUPREME COURT

APPEAL FROM THE 9TH JUDICIAL CIRCUIT
COURT OF KALAMAZOO, MICHIGAN

Honorable George V. Weimer, Circuit Judge

THE PEOPLE OF THE STATE
OF MICHIGAN,

Plaintiff and Appellee,

vs.

Calendar No. 43970

CHARLES QUICKSALL,

Defendant and Appellant.

RECORD ON APPEAL

CHARLES QUICKSALL, No. 40086,
Defendant and Appellant,
Acting In His Own Behalf.
Business Address:
4000 Cooper Street,
Jackson, Michigan.

EUGENE F. BLACK,
Attorney General of Michigan;

ROBERT BARBER,
*Prosecuting Attorney for Kalamazoo
County for the People.*

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(Note — "This record on appeal is a true duplicate copy of all the proceedings had in this cause of the foregoing settled case.")

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CALENDAR ENTRIES

DATE **PROCEEDINGS**

1937.

July 16, Filed returns from Municipal Court.
16, Filed information.
16, 9:30 A. M. Arraigned and information read by Prosecuting Atty. Respondent pleaded guilty to First Degree Murder. Plea accepted by the Court and respondent remanded without bail.
16, 10:45 A. M. Proofs taken and respondent sentenced to Southern Michigan State Prison at Jackson and there be confined in solitary confinement at hard labor for the rest of his natural life.
16, Filed Judge's statement.
24, Filed report.
Sept. 10, Filed removal warrant.

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Apr. 18, Filed motion for leave to file delayed motion to vacate judgment and sentence and allied papers.

30, Filed petition for writ of habeas corpus and motion.

30, Issued writ — transfer warrant.

May 9, Hearing on motion for leave to file delayed motion to vacate judgment and sentence and for a new trial; taken under advisement by the Court.

13, Enter order denying the motion of the Defendant for leave to file a delayed motion to vacate judgment and sentence and for a new trial.

13, Filed notice of order.

DATE

PROCEEDINGS

1947

June 20, Filed Memorandum.
 25, Filed proof of service.
 25, Filed petition for order for extension of time
 to settle application for leave to appeal.
 July 22, Filed praecipe for motion and allied papers.
 22, Filed record on appeal etc.
 Oct. 15, Filed notice of service.
 Dec. 14, Filed claim of appeal and proof of service.
 17, Filed notice of settlement of record and proof
 of service.

STATE OF MICHIGAN

ss.

COUNTY OF KALAMAZOO

I, ANTHONY STAMM, Clerk of the Circuit Court
 for the County of Kalamazoo, DO HEREBY CERTIFY
 that the above and foregoing is a true and correct copy
 of Calendar Entries entered in the above entitled cause
 in said Court as appears of Record in my office. That
 I have compared the same with the original, and it is
 a true transcript therefrom, and of the whole thereof.

IN TESTIMONY WHEREOF, I have hereunto set
 my hand and affixed the Seal of said Court at Kalama-
 zoo, this 10th day of March A. D. 1948.

Anthony Stamm,
 County Clerk.

By Philip Hassing,
 Deputy Clerk.

(SEAL)

NOTICE OF SETTLEMENT OF RECORD ON APPEAL**(TITLE OF COURT AND CAUSE)**

To: Robert Barber,
Prosecuting Attorney,
Kalamazoo, Michigan.

Please take notice that the annexed is a true copy of Defendant's proposed record on appeal in the above entitled cause and reasons and grounds of appeal on which said record is based and that the same will be brought on for settlement before the Circuit Court for the County of Kalamazoo, before the Honorable Geo. V. Weimer on the Tuesday the 23rd day of December A. D. 1947 at 10 o'clock in the forenoon of said day, or as soon thereafter as the same may be heard at Kalamazoo Court House in the City of Kalamazoo, Michigan, at which time and place you may propose such amendments as you may desire.

(s) Charles Quicksall,
Defendant and Appellant.
4000 Cooper Street,
Jackson, Michigan.

DATED: December 15th, 1947.

CLAIM OF APPEAL

(Filed Dec. 13, 1947)

STATE OF MICHIGAN
IN THE SUPREME COURT

THE PEOPLE OF THE STATE

OF MICHIGAN,

Plaintiff,

vs.

Calendar No. 43970

CHARLES QUICKSALL,

Defendant and Appellant.

Charles Quicksall, Defendant and Appellant, claims an appeal from the order entered July 16th, 1937 by the Honorable George V. Weimer, Judge of the 9th Judicial Circuit Court of Kalamazoo, Michigan. Appellant takes a general appeal, with due notice to all parties concerned.

Respectfully submitted,

S/ Charles Quicksall

Charles Quicksall, No. 40086

Defendant and Appellant.

Business Address:

4000 Cooper Street,

Jackson, Michigan.

Dated: December 8th, A. D. 1947.

AFFIDAVIT OF PROOF OF SERVICE OF CLAIM
OF APPEAL

STATE OF MICHIGAN
IN THE SUPREME COURT

THE PEOPLE OF THE STATE
OF MICHIGAN,

Plaintiff,

vs.

Calendar No. 43970

CHARLES QUICKSALL,

Defendant and Appellant.

STATE OF MICHIGAN,

SS.

COUNTY OF JACKSON

Charles Quicksall, being first duly sworn, deposes and says that he is the defendant and appellant in the above entitled cause, that on the 8th day of December, A. D. 1947, he served the original Notice of Claim of Appeal with Mr. Jay Mertz, Clerk of the Supreme Court to be placed on file, and a true copy to Mr. Anthony Stamm, Clerk of the Circuit Court to be placed on file, and a true copy to Robert Barber, Prosecuting Attorney for the People of the County of Kalamazoo, Michigan, and also a true copy to Esq. Eugene F. Black, Attorney General of Michigan, by enclosing the same in envelopes addressed to the above named parties with a sufficient amount of postage, by mailing the said documents in the United States Registered Mail,

at the State Prison of Southern Michigan, at Jackson, Michigan, and requesting a return receipt for the proof of the delivery of same.

, Respectfully submitted,

S/ Charles Quicksall,
Deponent.

Subscribed and sworn to before me a Notary Public, this 8th day of Dec. A. D. 1947.

S/ Paul G. Stowers,
Notary Public.

My Commission expires Sept. 11, 1951.

ORDER GRANTING APPLICATION FOR LEAVE TO
APPEAL

(TITLE OF COURT AND CAUSE)

AT A SESSION OF THE SUPREME COURT OF
THE STATE OF MICHIGAN, Held at the Supreme
Court Room, in the Capital of Lansing, on the third
day of December, in the year of our Lord one thousand
nine hundred and forty-seven.

Present the Honorable:

Leland W. Carr,
Chief Justice;
Henry M. Butzel,
George E. Bushnell,
Edward M. Sharpe,
Emerson R. Boyles,
Neil E. Ried,
Walter H. North,
John R. Dethmers,
Associate Justice.

THE PEOPLE OF THE STATE
OF MICHIGAN,

Plaintiff,

vs.

43970

CHARLES QUICKSALL,
Defendant.

In this cause an application is filed by defendant for leave to appeal from the sentence of the Circuit Court for the County of Kalamazoo and a brief having been

filed by the Attorney General; and due consideration thereof having been had by the Court, It is ordered that the application be and the same is hereby GRANTED.

STATE OF MICHIGAN—SS.

I, Jay Mertz, Clerk of the Supreme Court of the State of Michigan, do hereby certify that the foregoing is a true and correct copy of an order entered in said Court in said cause; that I have compared the same with the original, and that it is a true transcript therefrom, and the whole of said original order.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my seal of said Supreme Court at Lansing; this 3rd day of December in the year of Our Lord one thousand nine hundred and forty-seven.

(SEAL.)

S/ Jay Mertz,
Clerk.

REASONS AND GROUNDS FOR APPEAL
(Filed July 22, 1947)

STATE OF MICHIGAN
IN THE SUPREME COURT
APPEAL FROM THE CIRCUIT COURT OF
KALAMAZOO

Honorable Geo. V. Weiner, Judge of the 9th Judicial
Circuit

THE PEOPLE OF THE STATE
OF MICHIGAN,

Plaintiff,

vs.

CHARLES QUICKSALL,

Defendant and Appellant.

Now comes the said Defendant Charles Quicksall, in his own Proper Person, acting in his own behalf in the above entitled cause, and says that the Honorable Judge of the 9th Judicial Circuit Court erred.

In denying Petitioner's Motion to vacate Judgment and Sentence, and which the defendant alleges as reasons and grounds for appeal, in the following particulars:

(A)

Because the Defendant is not guilty of the alleged crime of murder in the First Degree, as charged in the People's Information, either in law or in fact; and con-

tends of speedy justice by abridgment of trial, and is submitted that the Honorable Trial Court wherein Defendant was tried automatically lost jurisdiction through error when the Prosecuting Attorney made out a defective Information.

(B)

Because the defendant in this cause was denied the right to assistance of Counsel, that his plea was entered because of misunderstanding, through the effect of misrepresentation.

- 2 -

Because the trial Court failed to advise Defendant of the consequences of his plea and did not advise defendant of the difference between first degree Murder, second degree Murder and Manslaughter, and that the Trial Court sentenced Defendant to Prison on a capital offense the same day that he pleaded guilty and in less than one hour.

This is submitted to be an act of the State and is submitted to have breached the Constitutional Provisions of Due Process of Law through the Fifth and Fourteenth Amendment of our Constitution.

(C)

Because the defendant was denied his constitutional rights of the Equal Protection of Laws by the 9th Judicial Circuit Court of Kalamazoo, Michigan, as is guaranteed by both State and Federal Constitutions, through the Fifth and Fourteenth Amendment, as is more specifically set forth as follows:

(1)

Because the defendant was denied his constitutional rights by the sheriff and the prosecuting attorney while held in custody his right to the use of a telephone.

(2)

Because the defendant was denied the right to assistance of Counsel and further denied the right to consult with his relatives and friends.

(3)

Because the sheriff and the Prosecuting Attorney prevented the defendant from being accorded his constitutional rights. Should defendant in this cause be given an opportunity to withdraw his plea?

(D)

Because such judgment is invalid because, obtained in violation of Procedural guarantees protection against State invasion through the Fifth and Fourteenth Amendment.

Because the above is based upon the records and files in this cause and upon the affidavit of Charles Quicksall, Defendant and Appellant in this cause, which is hereto attached.

Therefore the defendant says that for the aforesaid errors, the judgment entered in said cause and the sentence heretofore imposed on the defendant ought to be reversed, vacated and the defendant discharged.

Respectfully submitted,

S/ Charles Quicksall,

Defendant and Appellant.

Dated: July 18th, A. D. 1947.

AFFIDAVIT
(Filed July 22nd, 1947)

STATE OF MICHIGAN

SS.

COUNTY OF JACKSON

Charles Quicksall, being first duly sworn, deposes and says; that he is the Petitioner and Deponent, in the above entitled cause; and respectfully says: that to the best of his knowledge, he believes that his conviction was in violation of legal safeguards which was intended for the protection of all, are things involved that effect his rights to the equal protection of law, as is guaranteed under the Fourteenth Amendment of the United States Constitution and for that reason he submits his case before the bar of the Honorable Justices of this Supreme Court of Michigan, for review of his case and to seek the justice sought to be had in the following particulars, to-wit:

Deponent assumes that he has showing by record and proceedings, in said cause, that there is manifest error. When the Trial Judge of the 9th Judicial Circuit Court sentenced him to Prison for life on a capital offense without the assistance of counsel, on the same day that he was convicted and within the same hour.

Deponent further says he had no counsel to inform him of the nature of the degree to which he was pleading to and that at no time prior to the entering of such plea, did he receive any explanation of the nature of the penalty provided by law, for such offense, and had no knowledge of the effects that his plea of guilty would have on his life and liberty. Had he been informed of the nature of the degree or offense of which he was

charged, Deponent could not, and would not have entered a plea of guilty.

Deponent further says he was not apprised by the trial Court of the fact that he had Constitutional Rights, and that he doesn't have to answer any questions that would involve him in the alleged crime of which he was being tried.

Deponent further says that he was not apprised of the degree or of the fact that if he pleaded guilty to the alleged charge of Murder in the First Degree that he would be sentenced for and during the period of his natural life; and thinks he should have been instructed by the Trial Court of these facts in order that he may know his Constitutional Rights and the degree of the alleged crime placed against him.

Deponent further says that he is not guilty of the alleged offense of Murder in the First Degree as charged in the People's Information and that his plea of guilty was entered through fear and by erroneous belief based upon false promise made to him by the Prosecuting Attorney and the Sheriff that he would receive a sentence of from two (2) to fifteen (15) years for the charge of manslaughter, although Deponent says he was not even guilty of that.

Deponent further says that he was not familiar with such procedure in Court and thought that the Prosecuting Attorney and the Sheriff was trying to help him and was telling him the truth, although the Prosecutor and the Sheriff at the time knowing fully well that Deponent was pleading guilty to an alleged crime which he did not commit and if Deponent had been apprised of the degree of the alleged crime he would have refused to plead guilty before he had the advice of counsel.

Deponent further says that his plea was entered because of misunderstanding, the effect of misrepresentation and that he was denied the right to a jury trial and that he was wrongfully and erroneously convicted of an alleged crime which he never committed.

Deponent further says that there was never any probable cause or least proof established to show that he had committed any alleged shooting, the gun was never produced in Court as evidence nor was there any weapon or gun mentioned in the Information.

Deponent further says that the Circuit Trial Judge of the 9th Judicial Circuit Court of Kalamazoo, Michigan, denied him his rights to be tried by a jury and to a new trial when he has shown questions within the purview of the process of law; questions which have been arbitrarily brushed aside by the trial Judge of the Circuit Court and for which Deponent has served well over ten (10) years of his good life for an alleged crime that he never committed; and therefore his conviction was based upon an unjust Public Prosecution of speedy justice by abridgment of trial.

Deponent further says that he was unable at an earlier date, namely within the time limited for taking an appeal and the same was due to causes beyond his control and not to Deponent's culpable negligence and that granting this application for leave to appeal will serve the ends of justice.

Deponent further says that the sole case and proof is based upon the files and records of this case and is now a matter before the Honorable Justices of this Supreme Court of Michigan to decide upon, by virtue of the above facts and proceedings.

Deponent believes that there is merit in said matter of his cause and reasons and grounds for an application

for leave to appeal herein prayed for and for that reason he files for the relief sought to be had.

Deponent further says that he is cognizant of the above Affidavit and foregoing application for leave to appeal by him subscribed and that the same is true of his own knowledge except as to matters therein stated to be on Information and as to those matters he believes them to be true.

Respectfully submitted,

S/ Charles Quicksall,
Defendant and Appellant.

Sworn to and subscribed to this 18th day of July A. D. 1947.

(SEAL)

S/ John J. Spencer
Notary Public, Acting in and for
the County of Jackson, Michigan.

My Commission Expires April 2nd, A. D. 1951.

EXHIBIT "A" — MITTIMUS

(Filed July 16, 1937)

STATE OF MICHIGAN
THE CIRCUIT COURT FOR THE COUNTY OF
KALAMAZOO

At a session of the Circuit Court, continued and held at the Court House in the City of Kalamazoo, in said County and State, on Friday the 16th day of July 1937.

Present: Honorable Geo. V. Weimer, Circuit Judge.

THE PEOPLE OF THE STATE
OF MICHIGAN,

vs.

CHARLES QUICKSALL,

Charles Quicksall, the Respondent in this cause, having upon his voluntary plea of guilty to the information filed against him in this Court been duly convicted of the crime of MURDER and the Court, before pronouncing sentence upon such plea, being satisfied after such investigation as was deemed necessary for that purpose, — and by private examination of the Respondent respecting the nature of the case and the circumstances of such plea, that the same was made freely and with full knowledge of the nature of said accusation, and without any undue influence, and having been, on motion of the Prosecuting Attorney, brought to the bar of the Court for sentence, and having been asked there

by the Court if he had anything to say why judgment should not be pronounced against him and alleging no reason to the contrary.

And the Court having proceeded by the examination of four witnesses to determine the degree of the crime, and it appearing to the Court from the testimony of such witnesses that the respondent is guilty of Murder in the First Degree, and the Court having so determined and announced.

Therefore, it is ordered and adjudged, by the said Court now here, that the said Charles Quicksall is guilty of Murder in the First Degree and that he shall be confined in the State Prison of Southern Michigan at Jackson, Michigan, in solitary confinement, at hard labor and for and during the period of his natural life.

Geo. V. Weimer,
Circuit Judge.

EXHIBIT "B" — INFORMATION
(Filed July 16, 1937)

(TITLE OF COURT AND CAUSE)

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF
KALAMAZOO

KALAMAZOO COUNTY) SS.

Paul M. Tedrow, Prosecuting Attorney in and for the County of Kalamazoo aforesaid, for and in behalf of the People of the State of Michigan, comes into said Court, in the April Term thereof, in the year one thousand nine hundred thirty-seven, and gives the Court

here to understand and be informed that Charles Quicksall heretofore, to-wit, on the 2nd day of July, 1937, at the Township of Pavilion, in the County of Kalamazoo aforesaid, feloniously, wilfully and of his malice aforethought, did kill and murder one Grace Parker;

Contrary to the form of the statute in such case made and provided; and against the peace and dignity of the People of the State of Michigan.

Paul M. Tedrow,
Prosecuting Attorney in and for the
County of Kalamazoo, Michigan.

STATE OF MICHIGAN IN THE CIRCUIT COURT
FOR THE COUNTY OF KALAMAZOO, The People
of the State of Michigan vs. Charles Quicksall. IN-
FORMATION FOR MURDER. Filed this 16th day of
July, 1937. Eva M. Westnedge, County Clerk, Paul
M. Tedrow, Prosecuting Attorney for the County of
Kalamazoo, Michigan.

WITNESSES ENDORSED ON INFORMATION

J. M. Parker, Alice Marie Hawkins, Duane Rupper, Mrs. Jesse Pierce, Mrs. Cora Ketter, Frank Siebel, Dr. Joe P. Gilding, Dr. Horace Cobb, Otto Buder, Charles Conner, Glenn Hammel, Charles Struble, Vern Cairns, Darrell Wicke, Charles Spencer, Raymond Fox, Harry Ryskamp, John Wierather.

EXHIBIT "C" — COMPLAINT

(Filed July 3, 1937)

(TITLE OF COURT AND CAUSE)

IN THE MUNICIPAL COURT OF THE CITY OF
KALAMAZOOSTATE OF MICHIGAN
COUNTY OF KALAMAZOO SS.
CITY OF KALAMAZOO

The Complaint and Examination on Oath and in writing of Otto Buder taken and made before me, Gordon L. Stewart, the said Municipal Justice of the City of Kalamazoo, in said County, upon the 3rd day of July, A. D. 1937, who being duly sworn, says that heretofore, to-wit:

On the 2nd day of July, A. D. 1937, at the Township of Pavilion in said County, Charles Quicksall, feloniously, wilfully and of his malice aforethought, did kill and murder one Grace Parker; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the People of the State of Michigan.

Wherefore the said Otto Buder prays that said Charles Quicksall may be apprehended and held to answer this Complaint, and further dealt with in relation to the same as law and justice may require.

C. C. Buder

TAKEN, Subscribed and sworn to before me, on the day and year first above written.

G. L. Stewart,
Municipal Justice.

Case No. S-16433. The Municipal Justice Court of the City of Kalamazoo. The People vs. Charles Quicksall. COMPLAINT. Filed July 3, 1937 Frederick J. Mills, Clerk Municipal Justice Court, Kalamazoo.

EXHIBIT "D" — WARRANT
(Filed and Returned July 15, 1937)

(TITLE OF COURT AND CAUSE)

**IN THE MUNICIPAL JUSTICE COURT OF THE
CITY OF KALAMAZOO**

**STATE OF MICHIGAN
COUNTY OF KALAMAZOO SS.
CITY OF KALAMAZOO**

To the Sheriff or any Constable of said County, the Chief of Police of the City of Kalamazoo, or any Police Officer of said City, GREETINGS:

Whereas Otto Buder has this day made complaint in writing and upon oath before me, the said Municipal Justice of the City of Kalamazoo, in said County, that heretofore, to-wit:

On the 2nd day of July, A. D. 1937 at the Township of Pavilion in said County Charles Quicksall, feloniously, wilfully and of his malice aforethought, did kill and murder one Grace Parker; contrary to the form of the

statute in such case made and provided; and against the peace and dignity of the People of the State of Michigan.

And Whereas, on examination, on oath of the said Otto Buder by me, the said Municipal Justice, it appears to me, the said Municipal Justice, that said offense has been committed, and that there is just cause to suspect, the said Charles Quicksall, to have been guilty thereof,

in the name of the People of the State of Michigan, you and each of you, are hereby commanded forthwith to arrest the said Charles Quicksall, and bring him before me, the said Municipal Justice, to be dealt with according to law.

Given under my hand, and seal of said Municipal Justice Court, at the City of Kalamazoo, in said County, on the 3rd day of July, (SEAL) A. D. 1937.

G. L. Stewart,
Municipal Justice.

Case No. S-16433: The Municipal Justice Court of the City of Kalamazoo. The People vs. Charles Quicksall. WARRANT. By virtue of this warrant, to me directed, I have taken the within named person whom I have before the Municipal Justice within named as I am within commanded. Dated this 15th day of July, A. D. 1937. Otto Buder, Clerk. Returned and Filed July 15, 1937.

EXHIBIT "E" — JUSTICE'S RETURN
FROM MUNICIPAL COURT

(Filed July 16, 1937)

(TITLE OF COURT AND CAUSE)

IN THE MUNICIPAL JUSTICE COURT OF THE
CITY OF KALAMAZOO.

STATE OF MICHIGAN

SS.

COUNTY OF KALAMAZOO

I, the undersigned Gordon L. Stewart, Municipal Justice of the City of Kalamazoo, in said County do hereby certify and return to the Circuit Court, in and for the said County of Kalamazoo, that the complaint in writing and upon the oath of Otto Buder (which complaint is hereto annexed), was duly taken and made before me, the said Municipal Justice, at my office in the said City of Kalamazoo, on the 3rd day of July A. D. 1937; that before issuing a warrant he was orally examined by me in relation to the matters set forth in said complaint, that his testimony was not reduced to writing, and that it appearing to me, the said Municipal Justice, that the offense charged in said complaint, and hereinafter fully set forth, had been committed, and that there was just cause to suspect Charles Quicksall to be guilty thereof, I, the said Municipal Justice, did thereupon, on the same day issue the warrant, (which is hereto annexed), for the arrest of the said Chas. Quicksall in which complaint and warrant and said accused person was charged with having committed the following offense:— That heretofore, to-wit: on the 2nd day of July A. D. 1937, at the Township of Pavilion in said County Charles Quick-

sall, feloniously; wilfully and of his malice aforethought, did kill and murder one Grace Parker; contrary to the form of the statute in such case made and provided; Contrary to the form of the statute in such case made and provided and against the peace and dignity of the People of the State of Michigan.

The accused person was duly arrested by virtue of said warrant, and brought before me, the said Municipal Justice, at the Municipal Justice Court in the said City of Kalamazoo, in said County of Kalamazoo, on the 15th day of July A. D. 1937, that the charge made against said accused person as contained in said complaint and warrant, as above set forth, was duly and distinctly read to me, the said Municipal Justice, to said accused person and that thereupon his rights in the premises were duly explained to him by me, the said Municipal Justice. The said accused person expressly waived examination as to the matters and things as charged in said complaint and warrant.

And whereas, it was made to appear to me, the said Municipal Justice, that said offense was committed as charged in said complaint and warrant, and there was probable cause to believe said accused person to have been guilty thereof; I, the said Municipal Justice, thereupon, on the 15th day of July A. D. 1937, I ordered the appearance of said accused person for trial at the session of Circuit Court to be held in and for said County of Kalamazoo, on the 15th day of July, A. D. 1937, forthwith in the forenoon at the Court House in the City of Kalamazoo, in said County, then and there to answer to such information as might be filed against said accused person for said offense, and in default thereof that he be committed to the County Jail of the said County of Kalamazoo until said session of the Circuit Court for

said County and until he should be thence delivered by due process of law.

And I further certify and return *** nothing.

Given under my hand and the seal of said Municipal Justice Court; at the City of Kalamazoo, in said County, this 15th day of July A. D. 1937.

(SEAL)

G. L. Stewart,

Municipal Justice.

Case No. 16433 The Municipal Justice Court of the City of Kalamazoo. The People vs. Charles Quicksall. Offense Charged Murder. Return to Circuit Court for the County of Kalamazoo. Filed this 16th day of July, A. D. 1937, Eva M. Westnedge, Clerk of Circuit Court for Kalamazoo County.

EXHIBIT "F" — ARRAIGNMENT

(Filed July 16th, 1937)

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF
KALAMAZOO

Entered Friday, July 16th A. D. 1937.

The Court was opened for business in due form.

Present: Hon. Geo. V. Weimer, Circuit Judge.

THE PEOPLE OF THE STATE
OF MICHIGAN,

vs.

CHARLES QUICKSALL,

INFORMATION FOR MURDER

Charles Quicksall, the Respondent in this cause, having been duly arraigned at the bar, in open court and the information being read to him by Paul M. Tedrow, Prosecuting Attorney, pleaded thereto, GUILTY, and after an examination of Respondent, said plea was accepted by the Court.

Read, approved and signed:

Geo. V. Weimer,
Circuit Judge.Attest: Eva M. Westnedge,
Clerk.

EXHIBIT "G" — CONVICTION
(Filed July 16, 1937)

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF
KALAMAZOO

Entered Friday, July 16th, A. D. 1937.

The Court was opened for business in due form.

Present: Hon. Geo. V. Weimer, Circuit Judge.

THE PEOPLE OF THE STATE
OF MICHIGAN,

vs.

CHARLES QUICKSALL,

In this cause, the respondent having been arraigned on the information charging him with Murder, and having pleaded guilty thereof and said plea of guilty having been accepted by the Court, after an exhaustive interview with the respondent both in open Court and at chambers, and the Court having proceeded with an examination of witnesses to determine the degree of the crime, after hearing the testimony of the witnesses Horace Cobb, Jesse Pierce, Cora Ketter and Charles Conner, and the testimony of the respondent himself, unsworn, regarding the circumstances of this crime, and it appearing from the testimony of such witnesses and from the statement of the respondent that the killing was deliberate and premeditated, and under the

testimony of the respondent himself that it was in pursuance of a suicide pact, so-called, the Court finds and determines that respondent is guilty of murder in the first degree, and it is, therefore, ordered and adjudged that respondent be and he is guilty of Murder in the First Degree.

Read, approved and signed

Geo. V. Weimer,
Circuit Judge.

Attest: Eva Westnedge,
Clerk.

EXHIBIT "I" — JUDGE'S ORDER DENYING MOTION AND MEMORANDUM
(Filed May 13th, 1937)

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF
KALAMAZOO

THE PEOPLE,
vs.

CHARLES QUICKSALL,
Defendant.

To the Clerk of this Court:

An order may be entered denying the motion of the Defendant, Charles Quicksall, for leave to file a delayed motion to vacate judgment and sentence and for a new trial.

A statement of the reasons for this order has been dictated to Mr. Ford R. Wilber, Official Court Stenographer, as a part of the record.

Dated May 13, 1947.

S/ Geo. V. Weimer,
Circuit Judge.

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF
KALAMAZOO

THE PEOPLE OF THE STATE
OF MICHIGAN,

vs.

CHARLES QUICKSALL,
Defendant.

Before HON. GEORGE V. WEIMER, Circuit Judge,
at Kalamazoo, Michigan, Tuesday P. M. May 13, 1947.

MEMORANDUM

On July 3, 1937 a warrant was issued by the Municipal Justice of Kalamazoo, charging this defendant with murder of Grace Parker in Pavilion Township, this County. The Testimony taken upon the plea of guilty showed that the homicide was committed in her home while her husband was absent.

On July 3rd Defendant was in Bronson Hospital recovering from a gunshot wound, self inflicted at the same time that he shot and killed Grace Parker in pursuance of a suicide pact, after both had consumed a considerable quantity of beer, and after Mrs. Parker had persuaded her young daughter to go to one of the neighbors so that she and the Defendant might be alone.

During the several days of Defendant's confinement in the hospital, Sheriff Struble provided guards in his room on eight hour shifts. One of those guards was Harry Ryskamp, now a Deputy Sheriff and Court Officer. On July 3rd Defendant said to Mr. Ryskamp: "How long will I have to lay here? I wish to Christ it had taken effect on me like it did on her. If I get over this, it will mean life for me anyway." Ryskamp asked him what brought it all on. His reply was: "I don't know. We were just sitting there drinking beer." He then asked Defendant if it was agreed that they should die together. His answer was "Yes". What time did she die? Mr. Ryskamp immediately made notes of his talk with Defendant, signed them and placed them in the Sheriff's file, where they have been all these years and are now.

On July 15, 1937, Defendant having been removed from the hospital, was taken into Municipal Justice Court. The return of the Justice shows that his rights were explained to him, and that he expressly waived examination, and was held to appear in the Circuit Court forthwith without bail.

On July 16th Defendant was arraigned in this Court, and, after exhaustive interview with him, both in open court and at chambers, a formal order was entered accepting his plea. Defendant was then forty-four years of age; had theretofore been twice married and divorced,

and served two prison terms for separate and distinct felonies.

Immediately upon the entrance of the order accepting his plea of guilty, the following record was made:

THE COURT: The record may show that this respondent has just offered to plead guilty and has pleaded guilty to a charge of murder; that after a full statement by the respondent in response to numerous questions by the Court in open Court, and after a private interview with respondent at chambers in both of which he has freely and frankly discussed the details of this homicide as claimed by him, the Court being clearly satisfied that the plea of guilty is made freely, understandingly and voluntarily, an order has been entered accepting such a plea of guilty. It now becomes necessary for the Court to proceed now with the examination of witnesses, as requires by the statute, to determine the degree of the crime and to render judgment accordingly. You may proceed.

Horace R. Cobb, physician and coroner, Jessie Pierce and Cora Ketter, neighbors, and Charles Conner, Deputy Sheriff, were sworn and testified. Their testimony has not been transcribed, but should be transcribed and inserted at this point and considered as a part of the record and of these findings if and when an appeal shall be taken from the order made herein.

At the close of the testimony of the four witnesses the Court said: "All right, Quicksall, you may stand," and then followed questions by the Court and the answers by the Defendant and the findings and the order the Defendant was guilty of first degree murder and, finally, the sentence. The Court found, ordered and adjudged as follows:

THE COURT: In this case the respondent having been arraigned on the information charging him with murder, and having pleaded guilty thereto, and said plea of guilty having been accepted by the Court after an exhaustive interview with the respondent both in open court and at chambers, and the Court having proceeded with an examination of witnesses to determine the degree of the crime, after hearing the testimony of the witnesses, Horace Cobb, Jessie Pierce, Cora Ketter and Charles Conner and the testimony of the respondent himself, unsworn regarding the circumstances of this crime, and it appearing from the testimony of such witnesses and from the statement of the respondent that the killing was deliberate and premeditated, and under the testimony of the respondent himself that it was in pursuance of a suicide pact, so-called, the Court finds and determines that the respondent is guilty of murder in the first degree, and it is therefore ordered and adjudged that respondent be and he is guilty of murder in the first degree. You are convicted by your plea of guilty of murder and by the determination of the Court of murder in the first degree, have you anything to say before sentence?

RESPONDENT: No, sir.

A record was made by Mr. Ford R. Wilber, the Court Stenographer of all of the questions by the Court and Defendant's answers thereto and a transcript thereof is on file and at this point should be inserted in and considered a part of these findings. A record was made by the Court stenographer of the testimony of the four witnesses, but not transcribed. It should be transcribed and included in these findings if and when an appeal shall be taken.

On April 18, 1947 Defendant filed his motion in his own behalf for leave to file a delayed motion to vacate judgment and sentence and for a new trial and a proposed motion for all of that relief. At his request he was brought here for the hearing on May 9th. A record was made of the proceedings. A transcript of that record should be inserted herein at this point.

He expressly denied any desire for an attorney at this time. He claims in his motion that the sheriff and Prosecuting Attorney denied him an opportunity to get an attorney before he was arraigned in this Court

July 16, 1937

Charles Struble, the Sheriff in 1937, as a witness upon the hearing of this motion, denied that claim in its entirety. Paul M. Tedrow, Prosecuting Attorney in 1937, was hopelessly stricken about three months ago and is unable to leave his bed or to talk. Harry Ryskamp, a guard at the hospital, testified upon the hearing of the motion, as already stated herein, that Defendant well realized that he was guilty of murder and that he would be sentenced for life.

No reasonable excuse is offered for the delay of ten years in filing this motion. Even now Defendant offers no denial of having killed Mrs. Parker. The proposed motion to vacate judgment has no merit.

Having in mind the decision of the United States Supreme Court reversing the Michigan Supreme Court in People vs. DeMeerleer, it cannot be seriously urged that this Defendant did not understand the consequences of his plea of guilty. Neither can it be said that there was any confusion in his mind. His answers to the Court's questions dispose of that. The charge of murder is serious indeed, but there is nothing complicated about killing a woman by gunshot.

An order will this day be entered denying the motion of the defendant for leave to file a delayed motion to vacate judgment and sentence and for a new trial.

MOTION FOR LEAVE TO FILE MOTION FOR NEW TRIAL

(Filed April 18th, 1947)

(TITLE OF COURT AND CAUSE)

Now comes Charles Quicksall, Respondent, acting in his own behalf and in proper Person, and moves the Honorable Court for leave to file motion for an order setting aside the conviction and vacating the sentence and judgment heretofore imposed, so that a new trial may be granted because, in the record and proceedings, in said cause there is manifest error, which Respondent alleges as reasons and grounds for a new trial in the following particulars: —

(A)

Because the Respondent is not guilty of the alleged offense charged against him, either in law or in fact; and is submitted the Honorable Trial Court wherein the Respondent was tried automatically lost jurisdiction through error.

(B)

Because the Respondent in this cause was denied the right to assistance of counsel, that his plea was entered because of misunderstanding, through the effect of misrepresentation:

(C)

Because the respondent was denied his Constitutional Rights of the Equal Protection of the Laws as guaranteed by both the State and Federal Constitutions through the Fourteenth Amendment as is more specifically set forth as follows: —

1. Because the Respondent was denied the right by the Sheriff and the Prosecuting Attorney while held in Custody, his right to the use of a telephone.
2. Because the respondent was further denied the right to consult with his counsel; his family or friends or relatives.
3. Because the Sheriff and the Prosecuting Attorney prevented the Respondent from being accorded his Constitutional Rights and for this reason, the judgment should be vacated and set aside and the Respondent should be given an opportunity to plead anew.

(D)

Because such judgment is invalid because, obtained in violation of Procedural guarantees protection against State invasion through the Fourteenth Amendment.

Because the Respondent was unable at an earlier date, namely, within thirty (30) days after trial date, to file a motion for a new trial and the same was due to causes beyond his control and not to the Respondent's culpable negligence and that granting to leave to move for a new trial will serve the ends of justice.

The Court is requested to file it's decision on this motion in writing within ten days after hearing, same to be entered on file and made a part of the Record.

This motion is based upon the Records and Files in this cause and upon the affidavit of Charles Quicksall, said Respondent, hereto attached.

Respectfully submitted,

(s) Charles Quicksall,

Respondent.

In Proper Person

AFFIDAVIT

(Filed April 18, 1947)

STATE OF MICHIGAN

SS.

COUNTY OF JACKSON

Charles Quicksall, being first duly sworn, deposes and says; that he is the Respondent in the above entitled cause; and respectfully says that, in the records and proceedings, in said cause, there is manifest error, which Respondent alleges as reasons and grounds, for a new trial, that he is now held in custody, under a certain Mittimus, issued by the Honorable Geo. V. Weimer, Judge of the Circuit Court for said County of Kalamazoo, Michigan, a copy of the Mittimus is annexed hereto and made a part hereof and marked Exhibit "A" on the following grounds, to-wit:

Deponent says; that he is Not Guilty of the alleged offense of murder in the first degree as charged in the People's Information, either in law or in fact, Deponent will show by record that on July 16th, 1937 he was convicted and sentenced by the Honorable Geo. V. Weimer, Judge of the said Court, upon a conviction rendered for an alleged crime of murder in the First Degree and

therefore committed to a term of imprisonment for and during the period of his natural life to the State's Prison of Southern Michigan at Jackson, Michigan, under the above Mittimus, EXHIBIT "A".

Deponent further says that he was questioned by the sheriff and the Prosecuting Attorney, and that he did not voluntarily plead to the information filed against him by the Prosecuting Attorney, Mr. Paul M. Tedrow, charging him with the alleged crime of murder in the First Degree, therefore upon discussion of questions by the above Sheriff and Prosecuting Attorney, Deponent definitely stated that he was not guilty of the alleged crime charged against him.

Deponent further says that several times while he was held in custody he tried to use the telephone to consult with his friends or relatives to obtain the assistance of Counsel but was refused this right and was advised by the Sheriff and the Prosecuting Attorney that he could not have the assistance of Counsel nor could he have any visits until he had been to Court.

Deponent further says: that he was advised by the Sheriff and the Prosecuting Attorney that he had better plead guilty to the charge of *Manslaughter*, and that *he the Prosecuting Attorney would see that Deponent would receive a sentence of from two (2) to fifteen years (15).*

Deponent further says that the Prosecutor also informed him that his life was in great danger and that he the Prosecutor and the deputy in charge of the Hospital had a hard time from keeping the husband of the woman who he had shot from coming in the Hospital and throwing acid in the Deponent's face. Deponent says although he was not guilty of the alleged shooting but affected with fear; and feeling that the Prosecutor and the Sheriff was trying to help him, De-

ponent was not familiar with such procedure in Court and thought that the Prosecutor, was telling him the truth although both the Prosecutor and the Sheriff at that time knowing fully well that deponent was pleading guilty to an alleged crime which he did not commit, and for which he did not intend to plead guilty to.

Deponent further says: that the following morning of July 15th, 1937, the Deputy came over to the Hospital and moved him to the County Jail and later upon the same day the Deputy took him before the Municipal Court where examination was waived; the next day of July 16th, 1937, he was taken before the Judge of the Circuit Court and the Prosecutor said, "Your Honor, Charley wants to plead guilty and get this over with," the Court accepted the said plea and in less than an hour the Deponent was tried, convicted and sentenced to life imprisonment. This all happened on the same day and within the same day.

Deponent further says: that he was not informed by the Sheriff and the Prosecutor that if he entered a plea of guilty he would be sentenced to life imprisonment for the alleged crime of murder in the First Degree and if deponent had known that he was being charged with an alleged crime that he did not commit, he would have refused to plead guilty or answer any questions that were propounded to him by the Sheriff or the Prosecutor, before he had the advice of Counsel.

Deponent further says: that his plea of guilty was caused by fear and by erroneous belief based upon a false promise, made to him by the Sheriff and the Prosecutor and that his plea was entered because of misunderstanding, the effect of misrepresentation.

Deponent further says: that having before him the complete record of Court Procedure in this cause, and having devoted much of his time to the study of records

and laws relative to his case, it is the sole belief of this Deponent according to his findings, that he was wrongfully and erroneously convicted of an alleged crime which he never committed, and was informed through the effect of misrepresentation through the Sheriff of the Prosecutor that he was supposed to be pleading guilty of Manslaughter, and not murder in the First Degree.

Deponent further says: that he is *not guilty* of the alleged crime of murder in the First Degree and the sole and germane question before this Honorable Court is by virtue of the above and foregoing proceedings and is submitted to be wholly established, that failure of the Honorable Trial Court to compel the Prosecuting Attorney to accord the Deponent with the privilege of being properly charged, or indicted, placed the Deponent in an unjust position where he was subjected to hasty, malicious and oppressive Public Prosecution.

Deponent comes now to this Honorable Court, in search of the justice sought to be had, and to uphold the Constitution and laws of the United States, in connection with this cause, if this conviction is upheld, Deponent would suffer irreparable injury; he would be subjected to serious injustices and divested of his right to due and orderly process of the law of this State and Nation.

Deponent further says: that all of the above and foregoing facts is now a matter before this Honorable Court to decide upon, whether the facts as charged are sufficient to support the conviction of this Deponent.

Deponent further says: that upon his commitment to the State Prison of Southern Michigan at Jackson, Michigan, he did then and there attempt to secure assistance for the purpose of taking appeal, to secure Leave to move for a wrongful and erroneous conviction as aforesaid; that it was necessary for him to secure a

transcript of the complete record of the case, which took considerable time; that upon securing the proof and records which he needed; he by correspondence; had to secure assistance, which he could only do by correspondence; that being without funds, he had to make arraignments, so that money would be available to him for the purpose of prosecuting an appeal or to secure leave to move for a new trial.

Deponent further says; that it was not until now that he was able to secure the assistance satisfactory to him and make arraignments for the purpose of prosecuting a delayed appeal, or to secure leave to move for a new trial.

Deponent further says: that he was wrongfully and erroneously convicted and that granting of a delayed appeal, to secure leave to move for a new trial will serve the ends of justice. Deponent further saith not.

Deponent further says; that he is cognizant of the above affidavit and the foregoing motion by him subscribed and that the same is true of his own knowledge except as to matters therein stated to be on information and as to those matters he believes them to be true.

Respectfully submitted,

(S) Charles Quicksall,
Déponent.

Sworn to and subscribed to this 16th day of April, A. D. 1947.

(S) John J. Spencer,
(SEAL) Notary Public.

My commission expires 4-3, A. D. 1951.

CLERK'S CERTIFICATE

STATE OF MICHIGAN

SS.

COUNTY OF KALAMAZOO

I, Anthony Stamm, Clerk of said County and of the Circuit Court of Kalamazoo, Michigan, do hereby certify that the foregoing record is correctly taken and copied from the original record in the case of People vs. Charles Quicksall, File No. 6-519, Now remaining in my office and of record in said Court, and that the same has been examined and compared by me with the original record.

In testimony Whereof, I have hereunto set my hand and affixed the seal of the said Circuit Court of said County, this day of A. D. 194.....

(SEAL)

Anthony Stanum, Clerk.

Philip Hassing, Deputy Clerk.

CERTIFICATE OF THE COURT

STATE OF MICHIGAN
IN THE SUPREME COURTAPPEAL FROM THE 9TH JUDICIAL CIRCUIT FOR
THE CITY OF KALAMAZOO; MICHIGAN

Honorable George V. Weimer, Circuit Judge

THE PEOPLE OF THE STATE
OF MICHIGAN,*Plaintiff,*

vs.

CHARLES QUICKSALL,

Defendant and Appellant.

I, George V. Weimer, Judge of the 9th Judicial Circuit Court, hereby certify that the foregoing settled case constitutes all the proceedings had in said cause and the whole of the same except a transcript of testimony mentioned in my order denying leave to appeal and that after due notice I have settled, signed and certified the same on the 6th day of February A. D. 1948, after due notice to all parties concerned.

(S) Geo. V. Weimer,
Circuit Judge.

GEORGE V. WEIMER
Circuit Judge
Kalamazoo, Michigan

February 6, 1948.

Charles Quicksall, No. 40,086,
4000 Cooper St.,
Jackson, Michigan.

Dear Sir:

In reply to your letter received today I have signed the certificate attached to your proposed record on appeal, but have noted therein an exception that the record does not contain a transcript of the testimony taken before your plea of guilty was accepted.

You have a transcript of my memorandum filed when your motion for leave to appeal was denied, and in that memorandum I made it very clear that a transcript of your testimony and that of the four witnesses should be included in the record upon appeal. You have not done that.

The Supreme Court is entitled to an entire record, and before you have it printed you should obtain a transcript of all the testimony and include it in the record.

Yours truly,

Geo V. Weimer.

**PRAECLPICE — NOTICE TO ALL PARTIES CON-
CERNED — PROOF OF SERVICE — NOTICE
TO HIS HONOR**

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF
KALAMAZOO

In the Matter of

CHARLES QUICKSALL,

Case No. 6-519

Defendant and Appellant.



To: The Honorable George V. Weimer, Judge of the
9th Judicial Circuit Court and to Esq. Robert Barber,
Prosecuting Attorney, of Kalamazoo, Michigan.

PRAECLPICE

TO: Mr. Anthony Stamm, Clerk of the Circuit Court,
for County of Kalamazoo, Michigan.

Sir:

Please present this Notice before the Honorable
George V. Weimer, Judge of the said Court in his
Chambers at the County Court Building in the City
of Kalamazoo, Michigan on the 26th day of November,
A. D. 1947, at 10:00 o'clock in the forenoon of said day,
or as soon thereafter as the same may be heard.

Charles Quicksall,
Defendant and Appellant.

NOTICE TO ALL PARTIES CONCERNED

May it please all parties concerned in this matter of appeal to be informed that if there is any additional testimony or record to be entered at this particular point of the procedure then please forward same at my expense if cost is required; within 15 days from the above date.

Said documents being mailed by United States Registered Mail, under register No. 41502 — Stamm and 41501 — Barber and requesting a return receipt for proof of the delivery of same.

Respectfully submitted,

Charles Quicksall,
Defendant and Appellant.

Mailed Nov. 19, 1947.

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF
KALAMAZOO

In the Matter of

CHARLES QUICKSALL,

Case No. 6-519

Defendant and Appellant.

To the Honorable George V. Weimer, Judge of the 9th Judicial Circuit Court and in his chambers at the County Court Building in the City of Kalamazoo, Michigan

gan on this day of A. D. 1947,
at o'clock in the forenoon of said day.

Now comes Charles Quicksall, Defendant and Appellant in Proper Person acting in his own behalf in the matter pertaining to his appeal, and says at this time he wishes to inform the Court that he is only a layman and has tried to the best of his ability to proceed and protect his appeal now pending in the Michigan Supreme Court and to which substantial justice requires that I be granted in due time.

Should your Honor be satisfied that an agreeable settlement has been made with the Court on the record now filed with the Clerk of the Supreme Court, and should your Honor be satisfied that the record therein contained is a full and complete record of all proceedings necessary for a full understanding of question of law as set out in the reasons and grounds for appeal, then it will not be deemed necessary for further settlement unless the Court has some additional matter of record to be entered at this particular point of the procedure. If no additional record is forwarded to me within 15 days from the time your Honor takes notice of this matter, then I shall know my records are complete and I shall proceed on with my appeal which I have so long sought and prayed for.

Respectfully submitted,

Charles Quicksall,
Defendant and Appellant.

PROCEEDINGS UPON MOTION FOR LEAVE TO
FILE FOR NEW TRIAL

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF
KALAMAZOO

THE PEOPLE OF THE STATE OF MICHIGAN,

vs.

CHARLES QUICKSALL,
Defendant.

Before HON. GEORGE V. WEIMER, Circuit Judge,
at Kalamazoo, Michigan, Friday A. M., May 9, 1947.

Appearance:

Mr. Robert J. Barber, Prosecuting Attorney,
For the People.

Charles Quicksall, In Pro. Per.

THE COURT: You have filed a motion for leave
to file a motion for a new trial.

DEFENDANT: That is right, your Honor.

THE COURT: To vacate the judgment, the plea
of guilty and for a new trial, and at your instance you
have been brought here. Today was set for the hearing
of your motion and you have been brought here from
Jackson to attend the hearing. Are you ready to proceed?

DEFENDANT: I am, your Honor.

THE COURT: Have you a lawyer?

DEFENDANT: No, I haven't, sir.

THE COURT: Do you expect to have a lawyer?

DEFENDANT: Well, your Honor, it took me a long time to prepare the motion, and I figure that I would be just as well qualified to present it myself.

THE COURT: You have no desire to have a lawyer attend you at this time, then?

DEFENDANT: No sir, I don't.

THE COURT: Some lawyer at the institution prepared these papers for you, didn't they?

DEFENDANT: There was a man there. He has gone.

THE COURT: He isn't there now?

DEFENDANT: He has gone but he helped me quite a bit.

THE COURT: He is a lawyer, of course?

DEFENDANT: He was, yes, sir.

THE COURT: You don't care to tell us who he is?

DEFENDANT: His name is Baker.

THE COURT: He isn't there now?

DEFENDANT: No, he has gone home.

THE COURT: Where is his home, — Detroit?

DEFENDANT: I presume so.

THE COURT: The papers seem identical with those in other cases that have come here. All right. Do you want to rest your motion on the petition that you filed or you want to testify or you want to be heard without testifying?

DEFENDANT: I believe that that motion of mine — I rely mostly on the motion because of facts is there, from all of it.

THE COURT: Do you want to proceed to make a statement, or do you want to just let your motion — submit your motion on the file that is here?

DEFENDANT: I can make a statement, your Honor.

THE COURT: All right make a statement, if you care to.

DEFENDANT: Well, in the first place, I wasn't guilty of the crime that I was charged with, of first degree murder. I was under the impression when I pleaded guilty that I was to plead guilty to manslaughter. That was what was promised me in the hospital at the time I was there, and if I had knew I was going to be charged with the crime of first degree murder, I sure never would have pleaded guilty.

Defendant made answer to questions propounded to him by the Court as follows:

Q. You say you were assured at the hospital?

A. I was promised.

Q. Who promised you?

A. The Prosecuting Attorney, Mr. Paul Tedrow.

Q. And the sheriff, Charles Struble, when they came in the hospital?

A. They wanted to know how it happened, and I told them I didn't really know myself because it was an accident that just couldn't be avoided. He says "There was no accident." He says "You shot her." I says "I never shot anybody." I says "I never even had hold of the gun; how could I shoot anybody!" They says "You are guilty."

Q. Do you know where Mr. Struble is? You want to phone downstairs and see if he is there?

A. Then he tell me — the Prosecutor and he both tells me that they had such an awful hard time of keep-

ing Mr. Parker from coming in and throwing acid on me, and naturally they put more fear into me than what it was, lying there with a bullet in me, pretty sick, so when they said if I would consent to plead guilty to manslaughter that they would see that I wouldn't get more than two years — or less than two years or more than fifteen, I figured that would be the best way out and consented. When I got into Court Mr. Tedrow — he pleaded guilty for me. I never opened my mouth, but I still under the impression that I was getting charged with manslaughter until the Court read off the sentence.

Q. Well, do you know that Mr. Tedrow now is hopelessly stricken with paralysis and not able to talk and not able to —

A. (Interrupting): No, I don't, your Honor. That is the first I never knew that.

Q. You hadn't heard about it?

A. No, sir.

Q. You didn't know that for months now, two or three — three or four months he has been utterly helpless for a stroke of paralysis.

A. No, sir. That the truth; I never heard of it.

Q. His power of speech is gone and he can't talk. He is bedridden. You didn't know that.

A. I did not, your Honor.

Q. Anything else you want to say?

A. Well, I just can't remember right now.

Q. You were taken into Municipal Court first?

A. That is true, your Honor.

Q. Do you remember that?

A. I waived examination in Municipal Court.

Q. And you knew that you were charged with murder?

A. Yes, but, your Honor, when they came to the hospital —

Q. (Interrupting): I say you knew that, that you were charged with murder?

A. At that time.

Q. The warrant was read to you in Justice Court?

A. It was read to me there and I waived examination.

Q. On a murder charge?

A. That is true.

Q. You knew you were bound over to this Court on a charge of murder?

A. That is true.

Q. And when you appeared in this Court the information was read to you stating that you were charged with murder?

A. I never even heard the Prosecutor mention the charge of murder, your Honor.

Q. Don't you remember that in this Court the Prosecuting Attorney Mr. Tedrow, stated to you the substance of the information, the written information filed and signed by him, which charged that you Charles Quicksall then, theretofore, to-wit: on the 2nd day of July A. D. 1937, at the Township of Pavilion, County of Kalamazoo, feloniously, wilfully and of his malice aforethought, did kill and murder one Grace Parker. That was read to you right here in this Court, wasn't it?

A. Your Honor, at the time I came into this Court —

Q. (Interrupting): Wasn't that read to you?

A. I am sure I don't really know. I am telling you the honest truth. I came out of the hospital right to the county jail and from there to the Municipal Court and from there up here. I was very sick when I came into your court room.

Q. You were into the Municipal Court one day and in this Court the following day.

Q. And the following day you came into this Court and you knew you were charged with murder, didn't you?

A. That is right.

Q. Did you at any time in this Court suggest to the Court that you wanted an opportunity to talk to a lawyer?

A. I don't believe I ever did, your Honor. An attorney was never mentioned to me. I was never asked if I needed one. Even when I was in the hospital, I asked them. I asked them if I could have somebody call up for me. He says he wasn't allowed to let anyone in to visit me, talk to me or use the telephone.

Q. At the hospital?

A. At the hospital.

Q. Who was that?

A. The deputy sheriff.

Q. Who was it?

A. I don't know his name. This gentleman here was on in the evening, but I don't recall who the man was in the day time.

Q. Mr. Ryskamp was on in the evening?

A. Yes, sir.

Q. How many hours, — eight hours?

A. I couldn't say. I was asleep most of the time. They give me shots to put me to sleep. I couldn't call anybody.

Q. Well, you weren't asleep when you were in this Court?

A. I was very sick, your Honor. I was probably not asleep, but very sick.

Q. You talked with me at considerable length here in the Court Room?

A. I remember. I recall talking to you, but I couldn't recall what we was talking about.

Q. We were not in this building at that time?

A. I don't think we were. I don't think so.

Q. You remember where we were?

A. It seems to me we were in the Post Office Building, wasn't it?

Q. The City Hall across the park?

A. The City Hall.

Q. Across the park over there while this building was being built, is that right?

A. I believe that is right.

Q. You remember talking with me in the Court room over there?

A. I do.

Q. And you remember talking with me in my office with the door closed over there?

A. I do not, your Honor.

Q. You don't remember that?

A. I do not.

Q. Well, you remember coming back into the Court Room and a long conversation took place between you and me, a copy of which you have had made and filed here? You have seen them?

A. I have.

Q. Who were the deputies that guarded you at the hospital besides Mr. Ryskamp?

A. I didn't — I never heard the other man's name. He was a little short fellow. That is the only thing I know.

Q. Do you remember hearing me say this in Court the morning of July 16th: "The record may show that this respondent has just offered to plead guilty to a charge of murder; that after a full statement by the respondent in response to numerous questions by the

Court in open Court and after a private interview with respondent at chambers, in both of which he has freely and frankly discussed the details of this homicide as claimed by him, the Court being clearly satisfied that the plea of guilty is made freely, understandingly and voluntarily, an order has been entered accepting such plea of guilty. It now becomes necessary for the Court to proceed with the examination of witnesses, as required by the statute, to determine the degree of the crime and to render judgment accordingly". You remember all that?

A. I remember part of it, your Honor.

Q. Then you remember that we did then proceed to examine Horace Cobb, a doctor and coroner; you remember that?

A. I do.

Q. And Jessie Pierce?

A. I do.

Q. And Cora Ketfer?

A. Yes, sir.

Q. And Charles Conner, a deputy sheriff. You remember that we proceeded to take a sworn testimony of those four witnesses?

A. I remember three. I don't remember the fourth one.

Q. Do you remember in a general way what they testified to?

A. I don't believe I do.

Q. Who was Jessie Pierce?

A. Jessie Pierce was a next door neighbor to Mrs. Pierce.

Q. To the woman that was shot?

A. That is true.

Q. And killed?

A. That is true.

Q. You were there, of course, when she was shot?

A. I was there.

Q. You don't deny that now?

A. No, I never did deny I wasn't there.

Q. You and she were there alone together?

A. She asked Mrs. Pierce to go home; that she had something she wanted to tell me.

Q. You and the woman that you shot and killed were there alone?

A. We were there alone.

Q. There never was any question about that?

A. There never was that I heard.

Q. Then after we took the testimony of Doctor Cobb, the coroner —

A. True.

Q. And Jessie Pierce — who was Cora Ketter?

A. Mrs. Ketter was four doors from Mrs. Parker?

Q. You heard her testimony?

A. I remember her coming on the stand, but I don't recall her testimony.

Q. You don't recall Charles Conner.

A. No.

Q. You remember the Court proceeded with this: "All right, Quicksall, you may stand up." You remember that?

A. Yes.

Q. And then the Court proceeded to ask you questions and you answered those questions, almost four typewritten sheets which you have and typewritten and filed here. You have read those over?

A. I read those over.

Q. You remember all that?

A. I don't remember. I cannot recall the Court asking me those questions. I recall a great many of those questions asked me in the hospital.

Q. Don't you remember the Court asked you this question: "You have just heard the testimony of the four witnesses, Doctor Cobb, Mrs. Jessie Pierce, Mrs. Cora Ketter, and Deputy Charles Conner?

A. Yes, sir.

A. I heard them, yes, sir.

Q. You did hear Charles Conner's testimony?

A. I heard his name mentioned, your Honor, but I didn't see him on the witness stand.

Q. Then you remember the Court asking you: "Have you any comment to make upon any of that testimony?

A. No." You remember saying you had no comment to make?

A. I didn't have an comment, your Honor, to anything.

Q. Do you remember this long question: "When you were arraigned this morning and pleaded guilty and you plea was accepted, in the talk that was had between the Court and you here in open Court, and in the talk that I had with you privately in chambers, it is my recollection that you said in substance the following, and I am going to repeat what I recall you said to me: That you were born in Mansfield, Ohio, in 1893; left school in the eighth grade at the age of sixteen; that you had been a laborer and a cook most of your adult life; that you lived in the home of Mr. and Mrs. Parker in Toledo before coming to Kalamazoo; that they moved to Kalamazoo in 1935, and that you came here with them; is that right? A. Yes sir". You remember that long question being stated to you?

A. I do not recall it, your Honor.

Q. Well, it is all the truth, isn't it?

A. You have it on the paper there.

Q. Well, I mean that is the truth, all those things that I said to you at that time?

A. Oh, that is true, yes.

Q. "That you have been married and divorced twice and have two children by one marriage; that after coming here with the Parkers in 1935 you were arrested and taken back to Ohio on a non-support charge and were sentenced to a term of one to three years and served one year? A. Sixteen months, your Honor."

A. Those questions, your Honor, were never propounded to me.

Q. They were not?

A. No, your honor.

Q. I never propounded those questions to you in open court?

A. Not that I recall.

Q. Well, we will have to have our court stenographer, Mr. Ford Wilber, here sworn and testified to that testimony you got out.

A. I really can't recall that.

Q. He took it?

A. Probably did.

Q. He is an officer of this Court the same as I am and he took this and he took the testimony of those four witnesses too; he has all that.

A. I was pretty sick, as I explained to you. Maybe I didn't hear it.

Q. You remember this question put to you here in open Court: "That you were here in 1932 and were convicted in this Court of breaking and entering and sentenced by this Court to Jackson? A. Yes, sir". You remember that?

A. I do not.

Q. Under the name of Patterson? You did go under the name of Patterson?

A. I did.

Q. "You further stated that after your release from prison in Ohio for non-support you returned to Kalamazoo and resumed your abode at the home of the Parkers? A. Yes, sir." You remember that question and answer?

A. I don't.

Q. "That thereafter, if not before, you and Mrs. Parker became intimate? A. Yes, sir." You remember that?

A. Your Honor, the Prosecutor, Mr. Paul Tedrow, asked me that question in the hospital, and I explained.

Q. (Interrupting) I say you remember that here in Court?

A. I do not, your Honor.

Q. Well, we will have to have the proof of all this. "You also stated that in 1934 you and Mrs. Parker made an agreement that if you and she ever got caught in your unlawful intimate relationship that you would die together? A. Yes, sir." You remember that?

A. No, sir.

Q. "You also stated that quite recently and about a week or so before this shooting you left the Parker home? A. Yes, sir."

A. I left the Parker home, but I don't remember the question.

Q. "Upon the insistence of Mrs. Parker? A. Yes, sir."

A. There was no insistence of Mrs. Parker.

Q. "That you secured a job at a filling station at Cox's Corners that was quite near Long Lake or the lake where you had been living? A. About three miles." Is that right?

A. I don't recall it.

Q. "You say the night before the shooting the Parkers came to a beer garden at Cox's Corners? A. Yes, sir." You remember that?

A. I do not.

Q. "And you had some beer with them? A. Yes, sir." This is all questions and answers?

A. That is true; I read them.

Q. Here in open court before you were sentenced; you remember that?

A. I remember being in the open court, your honor, being sentenced, I do, but the particular questions I cannot recall.

Q. "And that she asked you to come to her home the following morning? A. Yes, sir. Q. Presumably to go fishing? A. Yes, sir. Q. That you went to her home the following forenoon; her husband was absent, of course? Yes, sir." This is all the truth, isn't it? This is what happened, isn't it, just as you —

A. (Interrupting) Some of it happened and some of it didn't.

Q. Just as you told us here in court that morning of July 16?

A. I sure must have been out of my head when I was telling — answering those questions.

Q. "You told me that you took six bottles of beer with you? A. Yes, sir. I asked you that question. I said, you told me that you took six bottles of beer with you? A. Yes, sir." You remember telling me that?

A. I presume so.

Q. "And that she on your arrival asked her young daughter to go next door to Mrs. Pierce's. A. Yes, sir." You remember that?

A. No, your Honor, I don't.

Q. "And then she asked you to light a cigarette for her? A. Yes, sir. Q. And you did. A. Yes, sir." You remember all that?

A. I cannot recall any of it.

Q. "And you then said that she told you that her husband was talking about leaving her and getting a divorce? A. Yes, sir." You remember that? "And that she then asked you to keep your agreement with her that you and she should die together?" You remember her asking you to do that?

A. No, she never did ask me to do that, your Honor.

Q. "A. Yes, sir." You said so at that time, didn't you?

A. Life was awful sweet.

Q. "You say that she then produced this revolver? A. Yes, sir. Q. And that at her request you picked it up and shot her? A. Yes, sir." You remember saying all that. "Q. She was sitting in a chair? A. Yes, sir. Q. In the living room? A. The sun parlor." It was in the sun parlor?

A. We were sitting in the sun parlor.

Q. "The same chair near which the officers said the empty cartridge was found? A. Yes, sir." You remember that? "Q. Then you say you picked her up and put her on the bed. A. Yes, sir." Is that right?

A. I did lay her on the bed after she was hurt.

Q. "And that you then shot yourself? A. Yes, sir."

A. I never shot myself.

Q. You didn't.

A. I did not.

Q. "Did she say anything to you that morning about going fishing? A. She asked me if I wanted to go fishing. I told her it was pretty warn. She says, 'Then we won't go.' "

A. She asked me if I wanted to go fishing. I told her I did not.

Q. "You heard Mrs. Pierce testify that you asked her to telephone for a case of beer? A. I did. Q. Is that true. A. That is right."

A. I never asked Mrs. Pierce to telephone.

Q. You remember seeing her here in Court?

A. I do not.

Q. "Was that before or after you had the six bottles of beer you said you took? A. That was after." You remember telling us that?

A. I do not.

Q. "Anything more you want to say about it? A. That is all I have to say, your honor." You remember that? Then you remember the Court, speaking through me, proceeded to tell you that you had been arraigned and after an exhaustive interview with you, both in open court and at chambers, and the Court having proceeded with the examination of witnesses to determine the degree of the crime, after hearing the testimony of the witnesses Cobb, Pierce, Ketter and Charles Conner, and the testimony of yourself, unsworn, regarding the circumstances of the crime and it appearing from the testimony of such witnesses and the statement of respondent that the killing was deliberate and premeditated under the testimony of respondent himself, in pursuance of a suicide pact, and the Court finds and determines that respondent is guilty of murder in the first degree. You remember the Court was stating that you were guilty of murder in the first degree?

A. Yes, sir.

Q. You remember that all right?

A. I do.

Q. You remember then that the Court asked you — said to you: "You are convicted by your plea of guilty of murder by the determination of the Court of murder in the first degree; have you anything to say before

sentence? Respondent: No, sir." You remember that?

A. I do.

THE COURT: Well, now, Mr. Struble is here. I am going to ask you to just sit down in the chair a moment. We have to have Mr. Struble sworn.

(Charles W. Struble and Harry Ryskamp were here sworn as witnesses and testified).

Q. You remember Mr. Ryskamp being with you as a guard in the hospital?

A. Yes, I do.

Q. You remember the talk with him that he has just related?

A. I remember part of it, your Honor.

Q. All right; any questions you want to ask him?

A. None your Honor.

Q. Anything further that you know of, Quicksall?

A. That is all I know of right now, your Honor.

THE COURT: Mr. Barber?

MR. BARBER: Nothing further, your Honor.

THE COURT: Mr. Wilber, you have a record of the testimony?

MR. WILBER: (Court Reporter) I have.

THE COURT: The testimony was taken to determine the degree of murder as required by the statute. Have you any law you want to cite to the Court?

DEFENDANT: All the laws, your Honor, is cited in here.

THE COURT: It is all in your brief?

DEFENDANT: That is right.

THE COURT: The brief that you filed?

DEFENDANT: Yes, sir.

THE COURT: And you have nothing further that you want to call to the Court's attention?

DEFENDANT: That is all.

THE COURT: Can you say whether or not in your brief reference to the case that was recently decided by the Supreme Court that went up from Adrain, I think?

DEFENDANT: Your Honor, that citation is not in here.

THE COURT: Well, you are familiar with the case that I have in mind.

DEFENDANT: I am, yes, sir.

THE COURT: You have had it called to your attention?

DEFENDANT: I have.

THE COURT: The case in which a man was pleaded guilty and sentenced the same day?

DEFENDANT: Yes, sir.

Q. What relatives did you want to get in touch with here that you claim you weren't permitted to?

A. I had a sister and sister-in-law down in Ohio.

Q. Here.

A. No, in Ohio, and I wanted to call them up. You see at that time, your Honor, I didn't have no money at all to hire counsel, and if I could have got in touch with them I know I could have got some.

THE COURT: Now, you have here a motion for leave to file a motion for a new trial, a motion for leave to file a motion for vacation of the — setting aside the sentence and plea of guilty and for a new trial:

DEFENDANT: That is true, your Honor.

THE COURT: Are you willing that the Court should consider both motions at this time, both the motion for leave to file and also the motion to vacate and set aside the judgment?

DEFENDANT: It would be agreeable to me, your Honor.

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THE COURT: Just the same as if you were entitled to file it?

DEFENDANT: That is right.

THE COURT: All right. Well, I will get at it. I can't decide it this moment. I will give it time and dispose of it. I would like to see the opinion of the Supreme Court in the Adrain case. It hasn't come through yet in the advance sheets and I would like to see it before I dispose of this, because as I view this, that is the only possible question that could be worthy of serious consideration in this case, would be that you pleaded guilty and were sentenced the same day. You were not denied the right of counsel; nothing in the history and the record in this case to show that you were denied an opportunity —

DEFENDANT: (Interrupting) Your Honor, I couldn't get in touch. I couldn't get out of bed and use a telephone. I asked to have somebody call, but — I don't know who gave the order, but the man that was on guard told me it was the Prosecutor and Sheriff.

THE COURT: How long had you been out of the hospital when you were brought into this Court?

DEFENDANT: I left the hospital on the 15th; the following day.

THE COURT: Well, is there anything further that you know of Mr. Barber?

MR. BARBER: No, sir.

THE COURT: All right. Well, then that concludes our hearing and he may be returned to Jackson and I will dispose of this within a few days and mail you a copy of the Court's opinion, whatever it is. All right.

TESTIMONY TAKEN AT THE TIME OF SENTENCE

STATE OF MICHIGAN
THE CIRCUIT COURT FOR THE COUNTY OF
KALAMAZOO

THE PEOPLE OF THE STATE OF MICHIGAN,

vs.

CHARLES QUICKSALL,
Respondent.

(IN THE MATTER OF SENTENCE)

Before Hon. George V. Weimer, Circuit Judge, at
Kalamazoo, Michigan, Friday A. D., July 16, 1937.

APPEARANCE:

Mr. Paul M. Tedrow, Prosecuting Attorney, for
the People.

HORACE R. COBB, a witness, produced, sworn and ex-
amined on behalf of the People, testified as follows:

DIRECT EXAMINATION

By MR. TEDROW:

Q. Your name is Horace Cobb?

THE COURT: Just a minute. The record may show
that this respondent has just offered to plead guilty
and had pleaded guilty to a charge of murder; that

after a full statement by the respondent in response to numerous questions by the Court in open Court and after a private interview with respondent at chambers, in both of which he has freely and frankly discussed the details of this homicide as claimed by him, the Court being clearly satisfied that the plea of guilty is made freely, understandingly and voluntarily, an order has been entered accepting such plea of guilty. It now becomes necessary for the Court to proceed with the examination of witnesses, as required by the statute, to determine the degree of the crime and to render judgment accordingly. You may proceed.

Q. Your name is Horace Cobb?

A. Horace Cobb.

Q. You are a physician and surgeon?

A. In the State of Michigan, yes, sir.

Q. Duly licensed to practice your profession in the State of Michigan?

A. Yes, sir.

Q. You are also one of the county coroners?

A. I am.

Q. And on July 2nd last you had occasion to view the body of Grace Parker?

A. I did.

Q. And that occurred at Vicksburg, Michigan?

A. At Vicksburg in the hospital.

Q. And that is located in this County?

A. In Kalamazoo County.

Q. And later on you had occasion to perform an autopsy on Grace Parker?

A. I did.

Q. To determine the cause of death?

A. I did.

Q. Will you tell, Doctor, what you determined to be the cause of death?

A. The cause of death was due to a bullet wound that entered the chest through the fifth rib, mid clavicular line, passing through the tip of the heart, through the left lobe of the liver, downward, cutting off some of the larger vessels leading to the kidney on the left side, and stopped just below the skin between the tenth and eleventh rib, and there it was removed. The death was due to primarily to a bullet wound; contributary cause, hemorrhage from these vessels.

Q. The entrance of that bullet to the body was from the front, was it?

A. Yes.

Q. And the bullet was taken from what position?

A. From the back.

Q. And that bullet has been turned over to the Sheriff's Department?

A. Been turned over to Mr. Hammel.

MR. TEDROW: I think that is all, Doctor.

THE COURT: That is all.

JESSIE PIERCE, a witness, produced, sworn and examined on behalf of the People, testified as follows:

DIRECT EXAMINATION

By MR. TEDROW:

Q. Your name is Mrs. Jessie Pierce?

A. Yes, sir.

Q. And you live at Long Lake?

A. Yes, sir.

Q. In Pavilion Township?

A. Yes, I do.

Q. In Kalamazoo County?

A. Yes, sir.

Q. And your cottage or home is located next door to the Parker cottage?

A. Yes, it was.

Q. How far distant is your cottage from the Parker cottage?

A. Oh, I don't know as I can judge, not very far.

Q. Now, do you recall on July 2nd last that Mrs. Parker was at home?

A. Yes, she was.

Q. You had been acquainted with Mrs. Parker for some time?

A. She was my best friend.

Q. And you knew her husband?

A. Yes, sir, I did.

Q. His name was Joe Parker?

A. That is right.

Q. How long had you known them?

A. Well, we moved out there — it will be a year next month.

Q. Do you recall on the morning of July 2nd of seeing this respondent around the place?

A. Yes, I did.

Q. Do you know when he came there?

A. I am not positive, only what Mrs. Parker's daughter said she came over and said he was there. That was around between 9 and 9:30.

Q. Later on there was something called to your attention, was there not, about some trouble that had happened over at the Parker cottage?

A. Well, before that I had had breakfast with Mrs. Parker, that is, she had a couple cups of coffee and so did I, and she asked me to take her little daughter to my home because she wanted to have a showdown with

this party; then claimed that she was going to forbid him to come around there.

Q. By "this party" you mean whom?

A. Mr. Quicksall.

Q. You had known that Quicksall had been staying there yourself?

A. Yes, I knew that.

Q. Did you know that there was a period of time when he wasn't staying there?

A. I knew the Monday before that.

Q. The Monday before. This occurred on what day of the week?

A. On Friday, I believe.

Q. Before that he had ceased to stay there?

A. Yes, sir.

Q. You didn't actually see this respondent come to the place?

A. No, I didn't.

Q. What time did Mrs. Parker's daughter come to your place?

A. It must have been around 9:30.

Q. Then when was the first that you knew that there was some trouble over at the Parker cottage?

A. Well, the little daughter went home again, and she was playing solitaire at the table.

Q. Who?

A. Mrs. Parker's daughter Alice, and she came over and she said that Charley wanted to see me, so I went over there, and he wanted to know if I would go to the neighbor's and call up and get a case of beer, and I said I wouldn't because we didn't believe in it and I wouldn't call.

Q. Who asked you to do that?

A. Mr. Quicksall.

Q. About what time was that?

A. Oh, I imagine that was — oh, later in the morning, about around 10:30 or 11.

Q. Where was Mrs. Parker at that time?

A. She was sitting in the chair. There was a studio-couch and then a card table and then a chair.

Q. Did you have some talk with Mrs. Parker at that time in his presence, in Quicksall's presence?

A. Nothing only just general conversation. Everything was peaceful over there then.

Q. Who asked you to get a case of beer?

A. Mr. Quicksall.

Q. And what did Mrs. Parker say?

A. She said no.

Q. How long did you stay there at that time?

A. Oh, just a few minutes.

Q. Then where did you go?

A. Then the daughter and I took some cold meat and pickles and things over to my house and we were going to get the lunch.

Q. Was there a note left there at that time?

A. I didn't see any. Well, the daughter left a little note later — before that.

Q. Did you see that note written?

A. No, I didn't see it.

Q. Well, then, what next occurred?

A. Well, then, we fooled around the house, played the radio, and we started to get something to eat and get some sandwiches ready, and her daughter says she would go and get her mother to come over and have lunch with us.

Q. And the daughter did go over there?

A. She went over there.

Q. Then what occurred?

A. Well, the daughter came screaming out and told me that Charley had shot her mother.

Q. Came over to your place?

A. Yes, sir.

Q. What did you do then?

A. I started to rush out and I got as far as the steps when I hears a shot:

Q. You got as far as what steps?

A. Mrs. Parker's steps, just going to open the door.

Q. The back door?

A. Yes, sir.

Q. And you heard what?

A. I heard a shot.

Q. What did you do then?

A. I turned around and went to one of the neighbor's to call for help.

Q. What place did you go first?

A. Well, I went to Tasseil's and they weren't home, and then I got mixed up in my houses, because I didn't know so very many there. I got to Mrs. Ketter's and then I found my right place, and I went over to Mrs. DeRight's.

Q. You were seeking Mrs. DeRight's place?

A. I was seeking a telephone along there, because I knew somebody had one.

Q. Mrs. DeRight had a telephone?

A. Yes, sir.

Q. Then what? Did you talk to Mrs. DeRight about calling the sheriff?

A. Yes. I was awful nervous and she calmed me down and told me she would do the calling, and she called for me.

Q. Then what did you do?

A. I went back to Mrs. Parker's.

Q. Who was there when you got in to the Parker cottage?

A. I can't remember everybody, but there was Mrs. Ketter, and I don't know who else. What is that name.

Q. There was someone else?

A. Yes, but I don't know who it was.

Q. Will you tell us when you went in there what you saw?

A. Well, Mrs. Parker was lying on her back on the bed and to one side was the revolver.

Q. Was that on the bed?

A. That was on the bed.

Q. What sort of a revolver was it?

A. Just a little small one that you could hold in the palm of your hand.

(Revolver marked Exhibit A).

Q. I show you People's Exhibit A; was it a revolver similar to that?

A. Similar to that.

Q. And that was lying where?

A. On the bed to the back of her, way out of her reach. It was way over.

Q. What was Mrs. Parker's condition at that time?

A. Well, she was sinking very fast. I had to talk to her quite a few times before I could get an answer out to her, and then I repeated two or three times and I asked her who shot her, and she said, "Charley did" and then I went out doors again looking for Mr. Parker, and he hadn't gotten home yet, and I went back in and I was in the dining room and she called me, and she said "Jessie, will you take care of my daughter Alice for me?" and I said I would.

Q. Was there anything said at that time by her about her going to die?

A. Yes, I tried to pull her to, you know; tried to have her use some will power. I didn't know she was quite

so bad, and she said "No, Jessie, I am going because it is all muddy water before my eyes".

Q. Did you observe any wounds about her body at that time — any blood?

A. In front — no blood, but there was just a burned place in the front of her dress, just a big hole.

Q. Did you see this respondent there?

A. I did.

Q. Where was he?

A. He was lying on the floor shot.

Q. Was he wounded?

A. Yes.

Q. Where?

A. Well, just about in here (indicating). His shirt was all burned. There was no blood there either.

Q. By "here," you mean where?

A. I can't tell just exactly.

THE COURT: Which side?

A. More to the center, I believe. I can't tell anything about a body like that. When he was lying down it looked as if it was just about like that (indicating).

Q. Right in the center?

A. Yes, sir.

Q. Over the stomach?

A. The stomach.

Q. And what was his condition?

A. He was moaning and groaning and after that he was quiet.

(Paper marked Exhibit B).

Q. I show you People's Exhibit B; is that a drawing of the Parker cottage — a map.

A. Yes.

Q. The bedroom show there?

A. Yes, right here (indicating).

Q. She was lying —

A. (Interrupting) She was lying right on the side of the bed, and the gun was back of her here (indicating).

Q. And the respondent was lying where?

A. On a rug — oh, I imagine not quite a foot from the bed, and their heads were facing the dining room and their feet were facing the window.

Q. Did you see any note around there, Mrs. Pierce?

A. No, I didn't.

Q. You didn't observe that?

A. No, I didn't.

MR. TEDROW: I think that is all, your Honor.

THE COURT: That is all.

CORA KETTER, a witness, produced, sworn and examined on behalf of the People, testified as follows:

DIRECT EXAMINATION

By MR. TEDROW:

Q. Your name is Mrs. Cora Ketter?

A. It is.

Q. You are the wife of Glenn Ketter?

A. Yes, sir.

Q. And you live at Long Lake?

A. Yes.

Q. You have lived there a good many years?

A. For approximately twelve years.

Q. On the morning of July 2nd last do you recall an occasion when Mrs. Pierce came to your house?

A. Yes.

Q. And told you that there was some trouble at the Parker cottage.

A. Yes.

Q. And wanted you to call the sheriff, did she?

A. Yes.

Q. And you left the place and where did you go?

A. Well, I started for Tassell's to use their phone, and she said "Would you go on over and I will go on over to DeRight's." She misinterpreted my meaning. I think she meant I was going to the cottage, so I went to the cottage.

Q. The Parker cottage was how far distant from your cottage?

A. Well, it is four cottages west.

Q. Did you go over to the Parker cottage?

A. Yes, sir.

Q. Were you the first one there?

A. I don't know.

Q. Did you go in the cottage?

A. I went in the cottage.

Q. Did you observe anyone in there beside Mrs. Parker and Quicksall.

A. No.

Q. Just tell us, Mrs. Ketter, when you went in the Parker cottage what you observed.

A. Well, Mrs. Parker was lying on the bed and Mr. Quicksall was lying on the floor.

Q. Beside the bed?

A. Yes.

Q. What was the condition of Mrs. Parker?

A. Well, she seemed to be very weak.

Q. Did you notice any injuries to her?

A. Yes, I noticed that — it looked like there was a shot right here (indicating).

Q. Just above — on the left side just above the belt?

A. Yes, sir.

Q. Did you notice any injuries about the respondent?

A. Well, yes, I noticed that it looked like a shot on his left side.

Q. Now, what occurred when you went in there? Anything said by Mrs. Parker or by Quicksall?

A. No. Mrs. Parker — Mrs. Pierce asked Mrs. Parker who shot her, and she said Charley.

Q. And then what else was said?

A. And then we tried to hold — tried to get her to hold herself, because we really didn't realize how bad she was, and she made the remark that she was going to die, and just a few minutes later she called out "Alice", and she asked Mrs. Pierce to take care of Alice.

Q. Alice was Mrs. Parker's daughter?

A. Yes, sir.

Q. Was there anything said by Mrs. Parker as to where this had occurred?

A. Yes, it seems like, if I remember right, she said she was sitting in the chair.

Q. In the chair, did she say what room?

A. No.

Q. She said she was sitting in the chair when this happened?

A. Yes, sir.

Q. Now, was Quicksall conscious at all while you were there?

A. No.

Q. He was unconscious?

A. Yes.

MR. TERDOW: I think that is all.

THE COURT: That is all.

CHARLES CONNER, a witness, produced, sworn and examined on behalf of the People, testified as follows:

DIRECT EXAMINATION

By MR. TEDROW:

Q. Your name is Charles Conner?

A. Yes.

Q. You are a deputy sheriff of Kalamazoo County?

A. I am.

Q. And you accompanied Mr. Buder when this call came in about the affray at the Parker cottage?

A. I did.

Q. The call came in about 11:30 A. M. on July 2nd, is that right?

A. We didn't go out in response to the call. Mr. Parker came to the office and said that he had a call.

Q. That is the husband?

A. Yes, sir.

Q. He came to the office?

A. Yes, sir.

Q. Who went out with you?

A. Joe Parker and the under sheriff, Buder.

Q. About what time did you get out there?

A. It was right close to noon.

Q. Will you tell us what you did when you got there? What occurred?

A. When we got out there we met Mrs. Pierce in the back yard, and Parker asked her if his wife was dead, or was she gone, I don't recall, and Mrs. Pierce said "yes," and Parker made a rush for the house, and Buder and I were pretty busy for two or three minutes keeping him from getting in, and finally we calmed him down and he went out in the garage, as I recall, with Mrs. Pierce.

Q. Just tell us what you did as you went in the place.

A. Buder and I went in the house.

Q. What did you observe in there?

A. We found Mrs. Parker lying on the bed, and immediately adjacent to the bed on the floor was Charles Quicksall. There was a bullet wound in the left chest near the center of Mrs. Grace Parker. There was also a bullet wound in the left chest of Charles Quicksall. Both of them were, I should say, unconscious at that time. Doctor Gelding was there and handed me a gun wrapped in a handkerchief, saying that he had picked it off the bed.

Q. That is this People's Exhibit A?

A. That is right. At that time the ambulance was there from Vicksburg and I assisted in getting Mrs. Parker on the stretcher and out of the house, and then I went over to call for the police ambulance to come to get Quicksall.

Q. Now, you made a search around the premises, did you not?

A. Yes, we did.

Q. Did you find a note there?

A. Yes.

(Paper marked Exhibit C).

Q. I show you People's Exhibit C; where was that note found?

A. That was found on the dresser in the bedroom.

Q. How close to this respondent?

A. Well, it was just about room between the dresser and the bed. That was taken up, practically all of it, by the width of Quicksall's body, a distance of possibly 30 inches.

MR. TEDROW: We wish to offer this in evidence, your Honor.

THE COURT: Do you know anything about the handwriting?

MR. TEDROW: It is signed.

THE COURT: You may read it into the record.

MR. TEDROW (Reads): "July 2, 1937. I am dying, Grace and I together, because we cannot live apart. Charles Quicksall."

Q. Now, Mr. Conner, you looked around the place, did you not?

A. Yes, sir.

Q. Did you find some shells, empty shells?

A. Yes, I found two empty shells.

Q. Where did you find those shells?

A. One of the shells was in the sun parlor, we designated it, close by the chair, near the card table and davenport in the front room.

Q. Did you find other evidence around the chair as to whether or not the shot had occurred or the shooting of Mrs. Parker had occurred in that chair?

A. The seat of the chair was wet.

Q. Wet. Could you determine what it was?

A. It smelled like urine to me.

Q. How far distant from this chair was this empty shell?

A. A matter of about four feet.

Q. Did you find a live shell there in the living room?

A. Mr. Buder picked it up in my presence.

Q. Did you find another empty shell?

A. Yes, sir.

Q. Where did you find it?

A. Well, that was near a table in the dining room portion of the cottage.

Q. This is all one large room?

A. It was an "L" shaped room.

Q. Now, did these shells, empty shells and the live shell that you found, fit People Exhibit A?

A. Yes, there were the same make of shell.

THE COURT: This revolver?

MR. TEDROW: Yes. This revolver.

Q. Now, there has been a drawing, Mr. Conner, made People's Exhibit B. Does that depict an outline of the cottage and where these chairs and furniture were and where the beds were and where you found the shell?

A. Yes, approximately.

MR. TEDROW: I would like to offer in evidence this drawing, if your Honor please.

THE COURT: Received.

Q. Now, you accompanied this respondent down to the Bronson Hospital here in Kalamazoo?

A. No, I didn't.

Q. Did you have some talk with him about what had occurred?

A. Not until this morning.

Q. You overheard, did you not, his statement as made here in Court?

A. I did.

Q. Can you relate to us your memory of what occurred and what he stated to the Court?

THE COURT: I think we can cover that. The Court will cover that in the talk with the respondent to be made upon the record.

MR. TEDROW: I think that is all, your Honor, except the sheriff — there have been statements taken and the sheriff is out of the city, and he had a talk with this respondent, which carries out the same line as told to the court here.

THE COURT: You mean it is in harmony with what respondent said in Court here this morning?

MR. TEDROW: Yes.

THE COURT: It is merely surplus?

MR. TEDROW: Yes.

THE COURT: Any further testimony?

MR. TEDROW: That is all.

STATE OF MICHIGAN
In The
SUPREME COURT

APPEAL FROM THE 9TH JUDICIAL CIRCUIT
COURT OF KALAMAZOO, MICHIGAN

Honorable George V. Weimer, Circuit Judge

THE PEOPLE OF THE STATE
OF MICHIGAN,
Plaintiff,

vs.

CHARLES QUICKSALL
Defendant.

Calendar No. 43970

SUPPLEMENTAL RECORD ON APPEAL

CHARLES QUICKSALL, No. 40086,
Defendant and Appellant,
Acting In His Own Behalf.
4000 Cooper Street,
Jackson, Michigan.

EUGENE F. BLACK,
Attorney General of Michigan.

ROBERT BARBER,
*Prosecuting Attorney for Kalamazoo
County for the People.*

**REASONS AND GROUNDS FOR A SUPPLEMENT TO
THE RECORD ON APPEAL**

(Filed May 29, 1948)

**STATE OF MICHIGAN
IN THE SUPREME COURT**

**APPEAL FROM THE CIRCUIT COURT OF
KALAMAZOO**

Honorable George V. Weimer, Circuit Judge

**THE PEOPLE OF THE STATE
OF MICHIGAN,**

Plaintiff and Appellee,

vs.

CHARLES QUICKSALL

Defendant and Appellant.

Now comes Robert J. Barber, Prosecuting Attorney for Kalamazoo County, acting in behalf of the People of the State of Michigan, and says that the Record on Appeal is not complete and should be supplemented by the inclusion of matter contained in this Supplemental Record on Appeal.

More specifically, this matter should be included in the Record on Appeal because of the following circumstances and reasons.

The proposed Record on Appeal was prepared by the Defendant, Charles Quicksall, and sent to the Circuit Court for Kalamazoo County for settlement and

certification. The Hon. George V. Weimer, Judge of the Ninth Judicial Circuit, refused to sign the certificate as prepared by the Defendant but did return to him a certificate as follows:

“I, George V. Weimer, Judge of the 9th Judicial Circuit, hereby certify that the foregoing settled case constitutes all the proceedings had in said cause and the whole of the same *except a transcript of testimony mentioned in my order denying leave to appeal* and that after due notice I have settled, signed and certified the same on the 6th day of February A. D. 1948, after due notice to all parties concerned.” (Italics supplied).

This certificate was accompanied by a letter which was written by the Hon. George V. Weimer, Circuit Judge, addressed to Defendant, Charles Quicksall, and also dated February 6, 1948. This letter is printed in the Record on Appeal, page 42, and is as follows:

“GEORGE V. WEIMER
Circuit Judge
Kalamazoo, Michigan

February 6, 1948.

Charles Quicksall, No. 40,086,
4000 Cooper St.,
Jackson, Michigan.

Dear Sir:

In reply to your letter received today I have signed the certificate attached to your proposed record on appeal, but have noted therein an exception that the record does not contain a transcript

of the testimony taken before your plea of guilty was accepted.

You have a transcript of my memorandum filed when your motion for leave to appeal was denied, and in that memorandum I made it very clear that a transcript of your testimony and that of the four witnesses should be included in the record upon appeal. You have not done that.

The Supreme Court is entitled to an entire record, and before you have it printed you should obtain a transcript of all the testimony and include it in the record.

Yours truly,

GEO. V. WEIMER."

(Italics supplied).

In his letter, Judge Weimer refers to his memorandum recorded at the time of his denying Defendant's motion for leave to appeal. This memorandum was dictated into the record as an opinion sustaining the denial of the motion and in this memorandum (printed on page 28, et seq., of the record on Appeal), at page 31 the Court stated:

"A record was made by Mr. Ford R. Wilber, the Court Stenographer of all of the questions by the Court and Defendant's answers thereto and a transcript thereof is on file and at this point should be inserted in and considered a part of these findings."

Therefore, we see that on May 13, 1947, upon denying a motion for leave to appeal, the Trial Court directed that this transcript of testimony therein mentioned

be included in the Record and that on February 6, 1948, upon certifying the Record, the Hon. Trial Judge noted the omission of this testimony and certified the record only with the express exception of this particular testimony. The Certificate was accompanied by a letter of the same date which very clearly stated that the record should not be printed until a transcript of all testimony was obtained and included. In spite of these repeated reminders and requests to include this transcript of testimony, the Appellant had the Record on Appeal printed without said transcript of testimony.

Because the Record was not completed as requested by the Trial Judge, and because the omitted testimony bears very heavily upon the questions submitted by the Defendant, and the charge of Defendant that he was not afforded procedural due process, it is respectfully submitted that the Record on Appeal be supplemented by the matter included in this Supplemental Record on Appeal.

Signed Robert J. Barber,

Prosecuting Attorney for Kalamazoo County, Michigan.

Dated....., 1948.

IN THE MATTER OF SENTENCE

STATE OF MICHIGAN
THE CIRCUIT COURT FOR THE COUNTY OF
KALAMAZOO

PEOPLE OF THE STATE
OF MICHIGAN,

vs.

CHARLES QUICKSALL
Respondent.

Before HON. GEORGE V. WEIMER, Circuit Judge,
at Kalamazoo, Michigan, Friday A.M., July 16, 1937.

THE COURT: The record may show that this respondent has just offered to plead guilty and has pleaded guilty to a charge of murder; that after a full statement by the respondent in response to numerous questions by the Court in open Court and after a private interview with respondent at chambers, in both of which he has freely and frankly discussed the details of this homicide as claimed by him, the Court being clearly satisfied that the plea of guilty is made freely, understandingly and voluntarily, an order has been entered accepting such plea of guilty. It now becomes necessary for the Court to proceed with the examination of witnesses, as required by the statute, to determine the degree of the crime and to render judgment accordingly. You may proceed.

(The testimony of the following witnesses was taken in open Court: Horace R. Cobb, Jessie Pierce, Cora Ketter, and Charles Conner).

THE COURT: All right, Quicksall, you may stand up here.

STATEMENT OF RESPONDENT

QUESTIONS

By The Court:

Q. You have just heard the testimony of the four witnesses, Doctor Cobb, Mrs. Jessie Pierce, Mrs. Cora Ketter, and Deputy Charles Connér?

A. Yes, sir.

Q. Have you any comment to make upon any of that testimony?

A. No.

Q. When you were arraigned this morning and pleaded guilty and your plea was accepted, in the talk that was had between the Court and you here in open Court, and in the talk that I had with you privately in chambers, it is my recollection that you said in substance the following, and I am going to repeat what I recall you said to me: That you were born in Mansfield, Ohio, in 1893; left school in the eighth grade at the age of sixteen; that you have been a laborer and a cook most of your adult life; that you lived in the home of Mr. and Mrs. Parker in Toledo before coming to Kalamazoo; that they moved to Kalamazoo in 1935, and that you came here with them; is that right?

A. Yes, sir.

Q. That you have been married and divorced twice

and have two children by one marriage; that after coming here with the Parkers in 1935 you were arrested and taken back to Ohio on a non-support charge and were sentenced to a term of one to three years and served one year?

A. Sixteen months, your honor.

Q. That you were here in 1932 and were convicted in this Court of breaking and entering and sentenced by this Court to Jackson?

A. Yes, sir.

MR. TEDROW (Prosecuting Attorney): That was under the name of Patterson.

A. My mother was married twice and I went by that name.

Q. That was by the name of Patterson?

A. Yes, sir.

Q. You further stated that after your release from prison in Ohio for non-support you returned to Kalamazoo and resumed your abode at the home of the Parkers?

A. Yes, sir.

Q. That you returned here about April of this year?

A. Yes, sir.

Q. That thereafter, if not before, you and Mrs. Parker became intimate?

A. Yes, sir.

Q. Probably before, wasn't it?

A. Yes, sir.

Q. You also stated that in 1934 you and Mrs. Parker made an agreement that if you and she ever got caught in your unlawful intimate relationship that you would die together?

A. Yes, sir.

Q. You also stated that quite recently and about a week or so before this shooting you left the Parker home?

A. Yes, sir.

Q. Upon the insistence of Mr. Parker?

A. Yes, sir.

Q. And that you secured a job at a filling station at Cox's Corners that was quite near Long Lake or the lake where you had been living?

A. About three miles.

Q. You say the night before the shooting the Parkers came to a beer garden at Cox's Corners?

A. Yes, sir.

Q. And you had some beer with them?

A. Yes, sir.

Q. And that she asked you to come to her home the following morning?

A. Yes, sir.

Q. Presumably to go fishing?

A. Yes, sir.

Q. That you went to her home the following forenoon; her husband was absent, of course?

A. Yes, sir.

Q. You told me that you took six bottles of beer with you?

A. Yes, sir.

Q. And that she on your arrival asked her young daughter to go next door to Mrs. Pierce's?

A. Yes, sir.

Q. And you and Mrs. Parker drank the six bottles of beer?

A. Yes, sir.

Q. And then she asked you to light a cigarette for her?

A. Yes, sir.

Q. And you did?

A. Yes, sir.

Q. And you then said that she told you that her husband was talking about leaving her and getting a divorce?

A. Yes, sir.

Q. And that she then asked you to keep your agreement with her that you and she should die together?

A. Yes, sir.

Q. You say that she then produced this revolver?

A. Yes, sir.

Q. And that at her request you picked it up and shot her?

A. Yes, sir.

Q. As she was sitting in a chair?

A. Yes, sir.

Q. In the living room?

A. The sun parlor.

Q. The same chair near which the officers said the empty cartridge was found?

A. Yes, sir.

Q. Then you say you picked her up and put her on the bed?

A. Yes, sir.

Q. And that you then shot yourself?

A. Yes, sir.

Q. Did she say anything to you that morning about going fishing?

A. She asked me if I wanted to go fishing. I told her it was pretty warm. She says "Then we won't go."

Q. You heard Mrs. Pierce testify that you asked her to telephone for a case of beer?

A. I did.

Q. Is that true?

A. That is right.

Q. Was that before or after you had had the six bottles of beer you say you took?

A. That was after.

Q. Anything more you want to say about it?

A. That is all I have to say, your honor.

• • •

THE COURT: In this case, the respondent having been arraigned on the information charging him with murder, and having pleaded guilty thereto and said plea of guilty having been accepted by the Court, after an exhaustive interview with the respondent both in open Court and at chambers, and the Court having proceeded with an examination of witnesses to determine the degree of the crime, after hearing the testimony of the witnesses Horace Cobb, Jessie Pierce, Cora Ketter and Charles Conner, and the testimony of the respondent, himself, unsworn, regarding the circumstances of this crime, and it appearing from the testimony of such witnesses and from the statement of the respondent that the killing was deliberate and premeditated, and under the testimony of the respondent himself that it was in pursuance of a suicide pact, so-called, the Court finds and determines that respondent is guilty of murder in the first degree, and it is, therefore, ordered and adjudged that respondent be and he is guilty of murder in the first degree.

You are convicted by your plea of guilty of murder and by the determination of the Court of murder in the first degree; have you anything to say before sentence?

RESPONDENT: No, sir.

THE COURT: The sentence of the Court is that you, Charles Quicksall, shall be committed to the State

Prison of Southern Michigan at Jackson and there confined in solitary confinement at hard labor for and during the period of your natural life.

CERTIFICATE OF THE COURT STENOGRAPHER

STATE OF MICHIGAN
IN THE SUPREME COURT

APPEAL FROM THE 9TH JUDICIAL CIRCUIT
COURT FOR THE CITY OF KALAMAZOO,
MICHIGAN

Honorable George V. Weimer, Circuit Judge

PEOPLE OF THE STATE
OF MICHIGAN,

Plaintiff,

vs.

Calendar No.

CHARLES QUICKSALL

Defendant and Appellant.

I, Ford R. Wilber, Court Stenographer of the 9th Judicial Circuit Court, hereby certify that the foregoing transcript of testimony is a true, correct, and exact copy of the transcript as written by me from my notes and filed with the Clerk of the Circuit Court.

Ford R. Wilber,
Court Stenographer.

CERTIFICATE OF THE COURT

STATE OF MICHIGAN
IN THE SUPREME COURT

APPEAL FROM THE 9TH JUDICIAL CIRCUIT
COURT FOR THE CITY OF KALAMAZOO,
MICHIGAN

Honorable George V. Weimer, Circuit Judge

PEOPLE OF THE STATE
OF MICHIGAN,
Plaintiff,

vs.

Calendar No.

CHARLES QUICKSALL,
Defendant and Appellant.

I, George V. Weimer, Judge of the 9th Judicial Circuit Court, hereby certify that the foregoing transcript of testimony constitutes all that portion of the record in the above entitled cause which is not included in the Record on Appeal, and that I have signed this certificate this 28th day of May 1948.

George V. Weimer,
Circuit Judge.

[fol. 95] (IN SUPREME COURT OF MICHIGAN

THE PEOPLE OF THE STATE OF MICHIGAN, Plaintiff and
Appellee

v.

CHARLES QUICKSALL, Defendant and Appellant.

Before the Entire Bench

OPINION—Filed October 4, 1948

NORTH, J.

On the 2nd day of July, 1937, Charles Quicksall, defendant herein, shot and killed Mrs. Grace Parker. He was arrested on the same day, and owing to a self-inflicted wound, he was taken to a hospital where he was kept under guard. The death of Mrs. Parker was evidently the culmination of a suicide pact entered into by defendant and the deceased in which it was agreed that in event of detection of their unduly intimate relations they "would die together." On July 15, 1937, defendant having recovered, was arraigned on a complaint and warrant charging him with murder. He waived examination and was held for trial in the circuit court. On the following day an information charging defendant with murder was filed, he was arraigned, and pleaded guilty. Thereupon the circuit judge painstakingly and in much detail investigated the attendant circumstances, both by interviewing defendant privately [fol. 96] in the judge's chambers and by examination of defendant in open court, where a record of the proceedings was made. At the same time four witnesses, who had knowledge of facts relevant to the offense charged, were examined in open court in defendant's presence. Thereupon defendant's plea of guilty was accepted and determination made by the court that the offense committed by defendant was murder in the first degree, and a sentence of life imprisonment was imposed.

Approximately 10 years later (April 18, 1947) defendant filed a motion for leave to file a delayed motion to vacate the sentence and set aside his plea and for a new trial. This motion was opposed by the prosecuting attorney. A hearing was had at which defendant was personally present. His application and the showing in support thereof

were carefully considered, he was examined, not under oath, in court. Witnesses were examined as to matters upon which defendant relied and the trial court again with extreme patience and care investigated and considered defendant's claims, and after due consideration defendant's motion was denied. At the above hearing defendant was asked if he desired counsel should be provided for him, but he declined to have counsel, saying "I figure that I would be just as well qualified to present it myself." Leave having been granted, defendant has appealed.

At the outset defendant complains of an alleged irregularity in his arraignment, in that he now says the prosecuting attorney waived the examination for defendant. The record shows that the complaint was read to defendant; [fol. 97] that his rights were "explained to him" by the magistrate and that defendant "expressly waived examination." However, if, as we hereinafter hold, defendant's plea of guilty was voluntarily and knowingly entered, any irregularity incident to his arraignment before the examining magistrate was waived, and therefore need not be given further consideration. *People v. Tate*, 315 Mich. 76.

Next, defendant asserts that the information filed against him was fatally defective in that it did not specify in what manner or with what instrument the alleged crime was committed. Under Michigan law there is no merit to this contention. The information complies with the statutory requirements of this state, which are:

"In any indictments for murder and manslaughter it shall not be necessary to set forth the manner in which nor the means by which the death of the deceased was caused, but it shall be sufficient in any indictment for murder to charge that the defendant did murder the deceased 3 Comp. Laws 1929, § 17, 285; Stat. Ann. § 28.1011. See also *People v. Bemis*, 51 Mich. 422; *People v. Roberts*, 211 Mich. 187.

Defendant's next contention, as set forth in his brief as follows:

"Defendant contends he was denied the right to the assistance of Counsel. And his plea was entered because of misunderstanding, through the effect of fear and of misrepresentation."

As to the first of the above contentions, the record discloses its inaccuracy. The record refutes defendant's claim that "he was denied the right to the assistance of counsel." While it is true defendant at the 1937 hearing in court was [fol. 98] not represented by counsel, there is no showing that he at any time intimated to the court a desire for counsel. We shall note some of the facts which in the instant case present a materially different factual background from that found in numerous cases upon which defendant seeks to rely in asserting reversible error because at the time of his conviction he did not have counsel. At the time defendant was before the court charged with this murder, he by no means was a man lacking in ordinary intelligence, he was not youthful, neither was he one who was inexperienced in court proceedings. Instead, at the time he pleaded guilty he was 44 years of age. The record made at that time and particularly his attitude and conduct in court in this later hearing disclosed that he was a man of fairly keen intellect and not one who by reason of youth or adverse circumstances should have his rights carefully protected by the appointment of counsel, which, as above noted, was not requested. He had been twice married and twice divorced. In addition to the above court experience he had been twice convicted of a felony and served penitentiary terms—16 months in Ohio and a latter term in Michigan for breaking and entering. At the present hearing defendant at no time asserted that when he pleaded guilty he was not aware of his right to be represented by counsel, and, if circumstances justified, appointment of such counsel for him by the court. In view of defendant's intelligence, his age, and his earlier experiences in court, there would seem to be no room for doubting that defendant at the time he pleaded guilty knew of his right to counsel if requested. Even at the hearing of the present matter he made no such [fol. 99] request, but instead he chose to proceed without the appointment of counsel. Under the circumstances disclosed the rights of defendant were not infringed by reason of counsel not having been appointed for him at the time he pleaded guilty.

Careful consideration was given by the trial court and has also been given by this court to defendant's contention that he entered a plea of guilty "because of misunderstanding, through the effect of fear and of misrepresentation." The

conclusion is quite irresistible that defendant did not plead guilty through a misunderstanding as to his being then charged with *murder*, which is the claim he now makes. Among other things disclosed by the record is the following: Before his arraignment and while he was at the hospital defendant said to an attendant: "• • • it will mean life for me anyway." On defendant's arraignment before the magistrate there was read to him a complaint which in plain words charged that he "feloniously, wilfully and of his malice aforethought, did kill and *murder* one Grace Parker." The information read to him at the time he pleaded guilty recited substantially the same words. When questioning defendant, not under oath, in the present matter the circuit judge asked defendant the following:

"Q. You remember then that the Court asked you— said to you (at the time defendant pleaded guilty): 'You are convicted by your plea of guilty of *murder* by the determination of the Court of *murder in the first degree*; have you anything to say before sentence?' Respondent: No, sir.' You remember that?"

"A. I do."

[fol. 100] So far as disclosed, defendant has never denied and does not now deny that he shot and killed Mrs. Grace Parker. Under this record it would be an insult to one's intelligence to sustain defendant's claim that he did not understand he was charged with murder.

Insofar as defendant now claims he pleaded guilty "through the effect of fear and of misrepresentation", the alleged pertinent facts are as follows. Defendant, after all these years, now asserts that while he was in the hospital either the prosecuting attorney or the sheriff, or both, stated to defendant that if he would plead guilty he would be given a sentence of not more than two to 15 years, supposedly for the offense of manslaughter. He also claims that he was lead to believe by his custodians that they were protecting him from harm in that the husband of the murdered woman was threatening to throw acid in his face, and further that when he was confined to the hospital bed his request that someone make a long distance telephone call to his relatives in Ohio requesting that they aid defendant in procuring counsel, was not granted. It is worthy of note that notwithstanding at the time he entered a plea of guilty

defendant had ample opportunity, both in open court and in private consultation with the circuit judge, to advise the circuit judge of any or all of the above circumstances, defendant does not now assert, that he made any claim of that character before the circuit judge. Of course, at that time the prosecuting attorney was present, and the sheriff in all probability was available. But now after all these years of delay and defendant for the first time is making [fol. 101] these claims, it is disclosed by the record that the prosecuting attorney because of a stroke of paralysis is bedridden, is entirely incapacitated, and in consequence is unable to testify. At the hearing of the present matter and in defendant's presence the sheriff, who had custody of defendant after his arrest and until his plea of guilty was entered, testified and definitely denied defendant's claim that while he was in custody the sheriff or anyone in the sheriff's presence denied defendant the right to get in touch with friends or relatives incident to procuring a lawyer or to use the telephone for that purpose. The sheriff also testified that defendant was not denied the right to consult with a lawyer, and also testified that in talking to the sheriff or the prosecutor the defendant had not denied his guilt of the crime charged. Further, so far as the sheriff could recall, the defendant did not at any time ask the sheriff to get a lawyer or to get in touch with a lawyer for defendant; and the sheriff definitely denied that either he or the prosecuting attorney, so far as the sheriff was aware, had told defendant he could not have the assistance of counsel or visitors until he had been in court; and that the sheriff did not advise defendant that he had better plead guilty to manslaughter, and the sheriff never had any knowledge of the prosecutor saying to defendant if he would so plead the prosecutor would see that defendant would receive a sentence of from two to 15 years. The circuit judge who heard this motion, being the same judge who accepted defendant's plea of guilty, evidently gave no credence to defendant's assertions in the respect under consideration, nor do we. In any event since [fol. 102] defendant did not at the time report these matters to the trial judge he should not be heard at this late date to assert them to the same judge in the hope of invalidating the sentence imposed.

The remaining portion of defendant's brief is devoted

to his claim that: "Appellant (was) denied his constitutional rights to the equal protection of laws . . . which is guaranteed by both the State (Constitution, art. 2, §19) and Federal Constitutions, through the fifth, sixth and fourteenth amendment . . ." In determining whether one convicted of crime has been denied his constitutional rights in the manner above indicated, it is necessary, in each instance to give careful consideration to the factual background of the particular case. See *Wade v. Mayo*, — U. S. —, (decided June 14, 1948) wherein relative to an alleged violation of one's constitutional rights, it is said:

"There are some individuals who, by reason of age, ignorance or mental capacity, are incapable of representing themselves adequately in a prosecution of a relatively simple nature. This incapacity is purely personal and can be determined only by an examination and observation of the individual."

And in *Betts v. Brady*, 316 U. S. 455, 473, in the prevailing opinion it is said:

"As we have said, the Fourteenth Amendment prohibits the conviction and incarceration of one whose trial is offensive to the common and fundamental ideas of fairness and right, and while want of counsel in a particular case may result in a conviction lacking such fundamental fairness, we cannot say that the Amendment embodies an inexorable command that no trial for any offense, or in any court, can be fairly conducted and justice accorded a defendant who is not represented by counsel. The judgment is affirmed."

[fol. 103] We have already outlined quite in detail the factual background of the instant case; and under the circumstances disclosed by this record we are convinced that defendant was not deprived of any of his constitutional rights. We have given careful consideration to the numerous cases cited by defendant in support of his contention; but, without herein reviewing them in detail, we deem it sufficient to note as to each of such cases that we find them clearly distinguishable from the instant case on the basis of the factual background. For example, defendant cited *DeMeerleer v. Michigan*, 329 U. S. 663. The defendant in that case was an inexperienced youth of the age of only 17

years, who was arrested, convicted by a plea of guilty of murder in the first degree after he had sought to plead guilty to murder in the second degree, and was sentenced, all on the same day.

Another case cited and relied upon by defendant is *Powell v. Alabama*, 287 U. S. 45; 77 L. Ed. 158, but there again the factual situation in consequence of which it was held that there had been an invasion of defendant's constitutional rights are not at all comparable to the background of the instant case. In the Powell case, where it was held the defendants had not been given a fair trial, on page 57 of its opinion, the court said:

"The defendants, young, ignorant, illiterate, surrounded by hostile sentiment, haled back and forth under guard of soldiers, charged with an atrocious crime regarded with especial horror in the community where they were to be tried, were thus put in peril of their lives within a few moments after counsel for the first time charged with any degree of responsibility began to represent them."

[fol. 104] Our conclusion is that the instant case is in the field of law and governed by our decisions in such cases as *People v. Fries*, 294 Mich. 382, and *in re Elliott*, 315 Mich. 662.

In the Fries case a headnote reads:

"Acceptance of plea of guilty and passing sentence for carrying concealed weapons without a license without having appointed counsel for defendant held, not error under record showing that he had waived examination before the magistrate, voluntarily pleaded guilty, did not indicate a desire to have counsel, and no unusual circumstances disclosed duty of court to appoint counsel."

In the Elliott case, in which the United State Supreme Court denied certiorari, the gist of the decision is indicated by the following headnote:

"Release of prisoner on writ of habeas corpus for which petition was filed more than 15 years after he had pleaded guilty held, not justified because of alleged denial of right to be represented by counsel, under

record showing that petitioner had been duly arraigned in circuit court on charge of robbery armed, made no request for counsel, entered a voluntary plea of guilty which was freely and understandingly made, that sentence was later imposed, and that petitioner did not at any time make any request to be allowed counsel or to change his plea."

After a careful consideration of the various contentions made by defendant, we are brought to the conclusion that there is no merit to his motion for leave to make a delayed motion for a new trial. The holding of the circuit court to that effect is affirmed.

Signed: Walter H. North, Emerson R. Boyles,
George E. Bushnell, Edward M. Sharpe, Neil E.
Reid, John R. Dethmers, Leland W. Carr, Henry
M. Butzel.

[File endorsement omitted.]

[fol. 105] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1948

No. 202, Misc.

ORDER DENYING PETITION FOR APPEAL, GRANTING CERTIORARI
AND TRANSFERRING CASE TO APPELLATE DOCKET

—February 28, 1949

On consideration of the petition for allowance of an appeal in this case, it is ordered by this Court that the said petition for appeal be, and it is hereby denied.

Treating the appeal papers herein from the Supreme Court of the State of Michigan as an application for a writ of certiorari, certiorari is granted and the case is ordered transferred to the appellate docket as No. 609.